DOCUMENT RESUME

ED 208 970 PS 012 483

AUTHOR	Treadwell, Lujuana Wolfe
TITLE	The Family Day Care Providers' Legal Handbook.
INSTITUTION	Bananas, Inc., Oakland, Calif.
SPONS AGENCY	Berkeley Law Foundation, Calif.
PUB DATE	Jun 80
NOTE	142p.
AVAILABLE FROM	BANANAS, Inc., 6501 Telegraph Avenue, Oakland, CA 94609 ($6.00).
EDRS PRICE	MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	*Business Administration; *Certification; Child Abuse; Child Advocacy; Contracts; Disabilities; *Family Day Care; Fees; Financial Support; *Legal Problems; *Legal Responsibility; Money Management; Parent School Relationship; Safety; State Standards
IDENTIFIERS	*California (Alameda County); *Legal Information; Legal Reference Materials

ABSTRACT

Designed specifically for family day care providers in Alameda County, California, this handbook provides legal and business advice thought to be useful as well to providers throughout the United States. A wide range of legal and business issues is covered in 15 brief chapters. Advice is offered on provider-parent contracts, planning for accidents and emergencies, licensing requirements, and local laws and ordinances governing day care operations. Legal rights of the day care provider, issues related to advocacy and support for family day care, caring for children who are sick and children with special needs, custody disputes, and providers' obligations under child abuse and neglect laws are also discussed. Remaining chapters address the use of small claims courts to collect fees owed, business planning and bookkeeping, tax obligations, government subsidies for children in family day care, and obtaining loans for the family day care business. Twenty-three copyrighted sample forms, written to be legally effective and easy to understand and designed so that they can be copied and used by providers are also included. (Author/RH)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED208970

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION
CENTER (ERIC)

☐ This document has been reproduced as received from the person or organization originating it.

☒ Minor changes have been made to improve reproduction quality.

- Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

The Family Day Care Providers' Legal Handbook

by
Lujuana Wolfe Treadwell
Attorney at Law

PS 012483

a publication of
BANANAS, Inc.
Child Care Information and
Referral Service

Edited by
John Curran Ladd, Attorney at Law
Betty Cohen, BANANAS, Inc.

"PERMISSION TO REPRODUCE THIS MATERIAL IN MICROFICHE ONLY HAS BEEN GRANTED BY
Betty Cohen

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

This handbook was made possible by a
grant from
THE BERKELEY LAW FOUNDATION
which funded
THE BANANAS FAMILY DAY CARE LAW PROJECT

and by
The BANANAS Publication Fund and
The Bay Area Child Care Law Project

sponsored by BANANAS, Inc.;
the San Francisco Lawyers Committee for Urban Affairs;
and the San Francisco Childcare Switchboard Childrens Council

and funded by the Van Loben Sels Foundation
the Zellerbach Family Fund, the Gerbode Foundation,
the Rosenberg Foundation and the Evelyn and Walter Haas, Jr., Fund.

I wish to thank the people at BANANAS,
John Curran Ladd, Dana Little, Margaret Mann,
Rhoda Slanger, Andrea DuFlon & my family—
Don, Elizabeth, Carol & Margaret.

No part of this book may be transmitted in any form by any means, electronic or mechanical, including photocopying or recording, or by any information storage or retrieval system, without permission in writing from the publisher. Address all inquiries to *Bananas, Inc.*, 6501 Telegraph Ave., Oakland, CA 94609.

Library of Congress Catalog Card Number: 80-67551

The Handbook may be obtained by sending a check for $6.00 to BANANAS, Inc., 6501 Telegraph Ave., Oakland, CA 94609.

Contents

Preface 5
1. Provider-Parent Contracts 7
2. Planning for Accidents & Emergencies 17
3. The Family Day Care License 27
4. Local Laws which Govern Your Day Care Home: Fire, Building & Zoning Ordinances 37
5. Your Legal Rights as a Provider 47
6. Advocacy and Support for Family Day Care 55
7. Caring for Children Who Are Sick 63
8. Caring for Children with Special Needs 69
9. Custody Disputes: Who Can the Child Go Home With? 77
10. Providers' Obligations Under Child Abuse and Neglect Laws 85
11. Collecting Fees Owed—Small Claims Court 95
12. Business Planning and Bookkeeping for Your Family Day Care Home 105
13. Your Tax Obligations 111
14. Government Subsidies for Children in Family Day Care 121
15. Obtaining Loans for Your Family Day Care Business 129
Bibliography and Reference Notes 139
Sample Forms 143

To the reader,

This book is written for you—present and future family day care providers. I believe that caring for children is the most important work in the world. The care you provide in your family day care home is vital to the happiness and well-being of the children in your home—as well as to their families.

But the well-being of the children and their families is not the subject of this book. Its purpose is to help you take care of yourself and to assure *your* happiness and well-being. You do valuable work and deserve to be happy in that work, to be paid a decent living, to feel good about what you do all day (and sometimes far into the night), to be treated with respect by the parents who use your home, and to be recognized as important in this society.

This book was written to help you *avoid* many problems and to help you solve those problems you cannot avoid. I hope it will be useful to providers with years of experience and to beginners too. Most people don't realize when they begin taking care of children that they will need legal and business advice. But they do. This book tries to provide advice of this kind in an easy-to-use form.

The information in this book, combined with your personal skill in dealing with people, will enable you to make your family day care home business personally and financially rewarding. Many of the skills you have developed for dealing with children are the very skills that will enable you to deal successfully with powerful adults. A provider who can persuade a stubborn preschooler to put his toys away can use the same techniques to persuade a stubborn bureaucrat to see things her way. Self-confidence, flexibility, and forcefulness work as well with government officials and parents as they do with children.

Although this book was designed specifically for providers in Alameda County, California, it will be useful to providers throughout California and the United States. While laws and agencies change from county to county and from state to state, providers face the same basic problems throughout the country.

I have made this book as complete and up-to-date as possible, but in using it, remember that laws and public agencies do change—sometimes rather frequently. Remember, too, that when you have a serious or difficult legal problem, no book can take the place of a lawyer.

Many of the ideas and suggestions presented here come from the hundreds of family day care providers who have shared with us their years of experience and their practical solutions to typical problems. The BANANAS staff and I thank each and every family day care provider—and we dedicate this book to them.

Lujuana Wolfe Treadwell
Attorney at Law
Berkeley, California
June 1980

Provider-Parent Contracts

"How can I avoid misunderstandings with parents?"

The best way is to get everything clear at the start, even before the child begins attending your home and certainly before you know the parents well. A straightforward, detailed discussion with each parent, together with a set of rules and a short contract signed by you and the parents, will prevent most misunderstandings.

Unexpected questions won't come up and cause problems if you and the parents know what to expect from each other in terms of hours, pay rate and time, meals, vacations, holidays, and many other details. Of course, you can't avoid all misunderstandings, but you can eliminate many by talking before the child begins attending your home and by having the most important concerns down in writing.

When you first begin doing day care, you won't think of all the possible questions, but providers who have been in the business for a while have experienced most of them. Some experienced providers share their rules for handling common problem areas later in this chapter. Reading their rules will help you foresee possible problems and write rules for your own day care home.

Put your rules in writing and make copies to give to all the parents who use your home. You can always change and add to your list of rules; just make sure that when you do, you tell the parents and give them a copy of the updated rules.

A copy of your rules and a signed contract like the sample one (Form A) will serve three purposes: (1) they will help you be thorough in your discussion with the parent who is enrolling a child in your home; (2) they will prevent many misunderstandings; and (3) they will show parents that you are a professional child care provider who runs a business-like day care home.

• Why use a contract?

One of the most common problems among family day care providers is misunderstandings with parents. A clear agreement at the start of the child care relationship can reduce or prevent many misunderstandings. This is one of the important reasons to use provider-parent contracts. The other crucial reason is to give you a basis for suing (or threatening to sue) if the parent refuses to pay or breaks another important part of the contract.

• What other forms do I need?

Your licensing worker will require you to keep certain forms on file for each child enrolled in your home. In addition, this handbook recommends other forms which will give you legal protection in certain situations. A sample set of enrollment forms and samples of other recommended forms are included in this handbook, beginning on page 143.

- **How do I make a contract?**

To make a contract, the parent and provider talk about and agree on what each expects of the other. They do this before any problems arise and usually before they know each other very well. While asking a parent to sign an agreement may make you feel uncomfortable the first few times you do it, it can save you some major discomfort later. And the contract will show parents that you are not only a loving person who likes children, but that you are also a professional with a carefully thought-out approach to running your day care home. You might point out to the parent that clarifying "formalities" now will avoid problems later and free more of your energy for the children. Most providers who use contracts find that the parents like them and also feel more secure having a contract.

- **What makes a contract legally binding?**

A contract does not have to be long—or in legal language or small print—to be legally binding. All that the law requires is a *mutual agreement* between you and the parent and an *exchange* between the two of you. These form the basis of your relationship with parents. The mutual agreement means that you have talked about and agreed on the basic rules of your relationship, including the parent agreeing to pay money and the provider agreeing to care for the child.

So you already have a contract if you and the parents have agreed that they will pay you to care for their children. These spoken contracts may be legally binding, but they aren't as helpful to providers as written contracts.

- **Why should the contract be in writing?**

Having a written contract will prevent many hassles in your ongoing relationship with the parents. A written contract and set of rules will help you remember to discuss the most important rules of your home. If questions come up later, both you and the parents will have a copy of the rules.

It is hard to remember the details of a spoken agreement even when things are going well. After disagreements have arisen or when people are upset, it becomes almost impossible to remember. A contract in writing can save many arguments over exactly what was agreed upon. It will prevent problems when things are going well and —just in case—may make the difference between getting your money and not getting it when things are going so badly that you consider using small claims court. When the agreement includes a reference to the rules, the rules themselves become a part of the contract and, thus, legally binding. You should give the parents a copy of the contract *and* the rules.

The rules or "guidelines" (what you call them doesn't matter) should reflect your own needs and your views of what is best for children. The sample rules in this chapter were gathered from many experienced family day care providers. Read through them to get ideas for your own set of rules. Use any you like as your own.

- **Do I take on any new responsibilities when I use a contract?**

Yes, because putting your agreement in writing makes clear both what parents must do and what you must do. It protects you and the parents, and it also gives each of you certain responsibilities. Even without the written contract, parents and providers have responsibilities. For example, the parent must pay a certain fee and the provider must be available during certain hours. The contract makes these responsibilities very specific. For example, the parent will pay a set fee and the provider will be available during specific hours.

In the sample contract (Form A) the provider agrees that her home will be open during specific hours, that she will provide certain snacks and meals, and that she will accept a certain fee on specific terms. If you use the Notice section of the contract, parents agree to give you a certain amount of notice before taking their children out of your care, and you agree (by legal implication) to give the parents the same amount of notice before closing your home or asking them to take their children out of your care.

- **What if I decide to change the contract or rules after parents have signed them?**

The main thing to remember is that if your contract (including the day care home rules) is in writing, any changes should be in writing too. Verbal changes probably won't be legally binding.

It is a good idea to sit down and read your contract and rules at least once a year to make sure that you are still happy with them and that they reflect the way you operate your home now. If you see that things have changed, rewrite the contracts and rules to make them fit the present situation in your home.

When you decide to change the rules or parts of the contract, write the changes down, date them, and give copies of them to all parents. This will assure that the parents know about the changes and it will make them legally binding.

- **If I am now operating a day care home without contracts, can I begin using contracts?**

Yes. If you decide to start using contracts, it is important that all parents—both old and new—be asked to sign contracts. Explain to the old parents why you have decided to start using contracts and how they will protect the parents as well as you. Be sure to give old parents a chance to ask questions about the contracts and the rules. They will probably not mind being asked to sign a contract if the contract and the rules seem to them to accurately state their relationship to you and your day care business. You might want to ask parents for any suggestions they have or for any rules they would like included.

- **Can I use contracts if my home is not licensed?**

Yes. A contract will be very useful in clarifying to parents how you run your home and what you expect of them. It will also help you collect fees owed by parents. However, you should be warned that if your home is not licensed, there is a very strong possibility that the contract would not protect you. If a parent flatly refused to pay and you took the case to court, the judge would probably not force the parent to pay because you had not obtained the license required by law.

SAMPLE FAMILY DAY CARE HOME RULES

The following are examples of rules written by day care providers for their own homes. The rules are arranged by subject and, as you will see, different providers have different ways of treating the same subject. You may like and want to use some of these rules and you will probably want to write some rules of your own. Some providers use only a few rules and others use many.

The rules become legally binding when they are attached to a contract which contains a sentence referring to them and specifying that both parent and provider have read them and agree to abide by them (Form A).

Enrollment

"All forms must be returned completely filled out before a child enters my care. All forms are subject to yearly renewal and must be kept up to date."

"All children enter day care on a trial basis (two weeks) to ensure proper adjustment."

"Advance payment for the first week of child care will hold an opening for two weeks with agreed-upon starting date and time. It will not be refunded if parent fails to start on the agreed date and time."

"There is a two-week trial period during which either party may cancel without notice. After the trial period one week's notice must be given by the terminating party (parent may pay one week's fee instead of notice)."

"I require a two-week deposit which is applicable to the last two weeks of care when I am given notice."

"A Parent-Provider Contract may be terminated at the provider's discretion with two week's notice (or 5 days, etc.) if it is felt that continued care of a particular child might be detrimental to the child or the day care program."

Hours and Fees

"I provide full-time care 5 days a week only, and my hours are 7:30 a.m. to 6:30 pm. (promptly, please), with all the children arriving no later than 9 a.m. so as not to disrupt any planned activity."

"Parents are asked not to come unexpectedly early to pick up children; this disrupts the schedule."

"Once a schedule is adopted I insist that drop-off time and pick-up time be strictly observed as I do have my own family to consider as well as dinner to prepare. I charge a $2.00 fee for lateness."

"Children have to be left at day care one-half hour before work and must be picked up one-half hour after work. I charge $1.00 for every 15 minutes parents are late."

"The day care fee is subject to change, with two weeks' notice given parents."

"Payment must be made in cash, in advance, on the first day of each month."

Vacations & Days Off

"A family vacation of two weeks a year is not charged for."

"The provider is paid for all national holidays as well as for two working days at Christmas and Easter and the day after Thanksgiving."

"Parents do not pay for provider's sick or vacation days since the parent must pay an alternate care provider."

"I do not deduct tuition for holidays and do not substitute days for days missed."

"If provider is sick or decides to take vacation time or a day off, she will find a substitute provider who will come to her home and care for the children. She will give parents two days' notice when possible if there is to be a substitute provider."

"Extended (one week or more) vacations by parents are payable at half the regular fee if parents give the provider one month's notice. Otherwise parents will be charged the full price of weekly care fee in order to hold the child's place open."

"The caregiver will give two weeks' notice to parents when she has to close the home for routine doctor or business appointments. As often as possible these will be scheduled for weekend or late afternoon times."

"Caregiver will give parents one month's notice for her vacations and will try to help in securing a substitute during her absence."

Food

"Parents bring the child's lunch and milk. Provider supplies juice and snacks in the afternoon."

"Please: *no junk food.*"

"Please do not send gum, candy, money or food other than lunch to day care unless you send enough for everyone."

"Provider will supply all food including meals and nutritious snacks."

"We make special days for birthdays so you may bring cake, cookies, or other treats to help celebrate. Please let provider know in advance what you have planned."

"Parents who want their children to eat special foods must provide these foods."

Clothing and Supplies

"Children's belongings should all be labeled with the child's name. Provider is not responsible for lost articles."

"Parents are asked to provide washable nap pad, pillow and blanket for all children in care between 12:30 and 3:00 p.m. daily."

"Please don't bring your child's toys or special belongings; they could get lost or broken."

"Parents are expected to provide an extra change of clothing for babies and toddlers daily."

"Please bring *disposable* diapers only for children still wearing diapers."

"Parents are to bring two complete changes of clothes and one extra pair of shoes. These clothes are to be left at my home and I will wash them as they get dirty. I suggest that you not bring something that you may want back every week."

"Please do not send your child to day care barefoot; even on hot days shoes are needed for some types of play."

Illness and Medicine*

"Parents should notify day care provider if the child has been ill during the evening, morning, or weekend before returning to the day care home."

"If you are notified by the provider that your child is ill, please pick him/her up as soon as possible.

"Please inform me of any communicable diseases in your family. If your child becomes ill or is injured at the family day care home and you cannot be reached, the physician on the Emergency Form will be called. [See form C-1 or C-2.] I recommend that you leave a signed consent form with your physician for him/her to proceed with emergency treatment."

---

*See Chapter 7 for legal advice on caring for sick children.

"A signed authorization form is required for all medicine administered to a child while in care. Please sign even for aspirin."

"Medication will be given *only* if it is in original container with prescription label attached and a signed authorization from the parent is in my possession."

"Please keep children home whenever there is a fever or during the first two days of a bad cold or cough. If there are any questions about whether you should bring your child or not, please call me first."

"Scratches and scrapes are inevitable when children play and will be treated with antiseptic and a band-aid. For anything more serious you will be notified at once."

"One advantage of choosing a family day care home is that children can attend even if they are not feeling up to par. If your child gets ill at school, I will go pick him/her up and bring him/her to my home until the end of the day."

Miscellaneous

"The day care provider will discipline the child in any manner deemed necessary which is not abusive and does not include corporal punishment." (See Chapter 10 for legal advice on discipline.)

"Discipline is not a big issue with me. If children aren't behaving acceptably, we have a 'green chair' that they sit in. If need be, we have a conference so day care provider, parent, and child can work to improve behavior."

"All children must nap or have a rest time in the early afternoon every day."

"All persons picking up children must be authorized to do so in writing by the parent." (See Chapter 9 for legal advice on authorization.)

"The child must be brought to the door and the provider must be told that s/he has arrived. S/he must be picked up at the door and the provider told s/he is leaving."

"It is necessary, if my Family Day Care Home is to continue to exist, that neighbors' driveways be respected and that parking be done only in legal spots. Please do not double park. Help me maintain good relations with my neighbors." (See Chapter 4 on neighbors and zoning.)

These are only examples of rules others have chosen to use; feel free to pick and choose, to write your own, and to make changes as your own situation requires.

Planning for Accidents & Emergencies

"How do I prepare for the possibility of a child being seriously hurt while in my care?"

As a family day care provider, you might well be worried about three things when you think about a possible serious accident to one of the children in your care—(1) obtaining immediate medical care for the child, (2) paying for that medical care, and (3) the possibility of being sued by the child's parents. There are several things you can do ahead of time to protect yourself and the families who use your day care home. Each of them offers good protection, but unfortunately none offers 100% protection.

You should be able to get emergency medical treatment for a child in your care if you have an emergency authorization form for the child with you when you go for treatment. The law requires[1] you to have such forms for every child in your family day care home. It is wise to keep these forms with you whenever the children are in care. Without such a form, doctors will treat children who are seriously injured and in a "life-endangering" condition, but there may be delays or problems.

The costs of medical treatment may be covered by the parents' medical insurance or by your medical insurance covering the children in your care. This chapter discusses insurance and other forms of protection for providers.

Most providers worry at least occasionally about their personal liability in case a parent sues after an accident. Still, some providers remain uninsured and cross their fingers that nothing will happen. This is an advisable risk *only* if you are "judgment proof"—that is, have no assets such as a home, a savings account, or present or future earnings of yourself or your spouse. Then, in the event of an accident worth suing over, there would be no money to go after and no reason to sue.

But if you aren't judgment proof or if you want to make sure that a seriously injured child would be covered by insurance, it is available to family day care providers. There are two standard ways for providers to protect themselves: through insurance coverage, or by using "waivers." Neither guarantees that you will be perfectly safe from having to pay should you be sued, but each offers some protection.

- **What forms would I need to have to get emergency medical treatment for a child in my care?**

You need and are legally required to have an *Authorization* to obtain emergency treatment (see Form C-1 or C-2). You must require that parents fill out and sign an *Authorization* for you to obtain emergency treatment for each child in care. Providers should also require that parents give their child(ren)'s physician an *Authorization* for the physician to provide emergency medical treatment for the child in the parent's absence. Most physicians will supply these forms to parents on request.

It is wise to keep the signed *Authorization* forms *with the children at all times* they are in care, so that they can be found quickly should an accident occur. If the children are taken on a trip, the provider should *always* take along copies of the emergency forms, including (1) the parents' and the physicians' names, telephone numbers, and addresses, and (2) the *Authorization* form. It is a good idea to have a small folder that will hold these forms for all the children. The provider should put the folder, along with band-aids, etc., into her bag whenever she takes children away from her home.

- **What is my legal obligation?**

The licensed provider's legal duty as defined in the Family Day Care Regulations, Section 86033(f), is to keep an emergency medical treatment Authorization form for each child in care. See Form C-1 or C-2. Your licensing worker may ask to see these forms on her visit.

- **Does the Authorization form guarantee that I can get medical treatment for an injured child?**

Unfortunately it does not. Most hospitals will provide treatment if you have a signed and dated Authorization form. All must provide treatment if the child's condition is life-threatening. However, some hospitals require more than the usual form. Some will treat children only when the parent has already filled out the hospital's own particular form and left a copy on file at the hospital. Others require telephone confirmation from the parent prior to treatment.

It is important that providers tell parents to check out the requirements of their own physicians and hospitals and comply with them. If providers know that they will take any injured children to one particular hospital, they should find out precisely what it requires and inform parents.

- **What should I do when a child in my care is hurt?**

1. *If you think the injury may be very serious and/or you do not feel capable of transporting the child yourself*—for example, in the case of broken bones, multiple injuries, or serious head and neck injuries—it would be best to call an ambulance (dial 911 in Alameda County)*. The physician on duty can treat the child before the parent arrives even without the Authorization Form if the injury is very serious (life-threatening). However, the physician will be more likely to treat the child for any injury if you have the signed and dated Authorization Form—and you as the provider will be protected by it.

2. *If the injury is less serious but needs immediate attention and you feel capable of*

---

*911 is the number in use in many communities around the country for all emergencies—fire, police, or medical. Be sure you know the numbers to call in your area and write them down on the phone itself (your phone company will provide stickers for this purpose). If you are in a community already provided with the 911 service, you can use a pay phone without having the correct change.

transporting the child yourself, call the parent immediately to arrange to meet at the hospital and then take the child to the hospital.

3. If the injury is not that serious—for example, if the child is alert, bleeding is controlled, and the child's skin color is good—it would be better to notify the parents and have them assume responsibility for seeking the appropriate medical care.

- **What other precautions should I take regarding injuries?**

It is very important that you constantly update the phone numbers where parents can be reached in case of emergency. Tell parents at the time of enrollment that they must tell you if their emergency number changes, and periodically ask them about this.

- **What should I do about minor injuries to children?**

Always inform the parent of any injury, no matter how minor it may seem. For example, if a child bumps his head on a swing during the day and seems fine, it's still best to mention it to the parent at the time the child is picked up.

- **Will I have to pay for the medical treatment?**

Probably not. However, you will be better protected from this possibility if you have the parent's agreement to bear all costs of treatment or if you are covered by medical insurance for the children in your care.

- **How can I insure that the child's medical costs will be paid and that I personally won't have to bear the cost?**

You can buy medical insurance to cover your day care children (see below). You can require that all parents have adequate medical insurance. Or you can include on your Authorization Form a sentence stating that the parent agrees to pay for all medical costs (see Form C-1).

- **How can I protect myself from being sued if a child is injured?**

There is no totally foolproof way to do this. However, there are two forms of protection available to licensed and unlicensed homes. They are insurance and liability waivers.

The licensed provider has more options for protection. A licensed day care provider can buy group insurance at relatively low cost; an unlicensed program cannot. A licensed day care provider can sometimes use her homeowner's policy as insurance protection for her business; an unlicensed program *may or may not* be able to get such protection. Adequate insurance is the best form of protection.

Waivers offer some protection, but should be relied on only when insurance is not available. A licensed day care program can require parents to sign waivers relieving the program from legal responsibility for injuries and protecting it from lawsuits; an unlicensed program can do the same.

However, when care is unlicensed, the insurance company or the suing parent might use the fact that the program is unlicensed to void the insurance coverage or the parental agreement. Furthermore, liability waivers don't always hold up in court. (They do discourage parents from suing, however.)

You can see that there is no totally safe way of protecting yourself from being sued—or from having to pay if you lose the suit. However, millions of providers care for millions of children in this country—and very seldom is a provider sued. The best way of handling this potential problem is to make your home and day care routine as safe as possible and to use one or more forms of liability protection.

- **What are my options and how does each work?**

There are four options and while none protects you from being sued, each attempts to protect you personally from having to pay in the event of a suit. You can do one of the following:

1. *Licensed Family Day Care Group Insurance Coverage.* Get a Family Day Care License if you qualify and buy insurance through a Group Coverage Program. Becoming licensed can be a long, slow process. Furthermore, if your license limits you to caring for 6 children and more than 6 are in care when a serious accident happens, the insurance policy might not cover the accident. However, this policy was designed especially for family day care, and it is available at a very reasonable cost. For more information about this policy, contact BANANAS, the day care association or referral agency in your area, or Dumas' Insurance Programming Associates, P.O. Box 1085, Studio City, CA 91604, (213) 981-7707. The policy costs approximately $70 per year if you belong to an association and $90 if you do not. If you rent your home or apartment, coverage is also available for your landlord from Dumas.

2. *Homeowners (or Renters) Insurance.* Rely on your Homeowner's or Renter's policy. This policy *might* protect your day care business if it is conducted in your residence. Read the policy carefully for clauses which exclude a business operated in the home—or consult your insurance agent or an attorney. If there is such a clause, it might be possible to purchase a rider to your policy covering your business (at some extra charge). If the policy says nothing that excludes a business in the home, you might decide to rely on the policy and hope that your business would be covered. There is a good chance that it would be covered so long as you have not misled your agent about your business.

3. *Home-Business Insurance Coverage.* This kind of policy is designed to insure a business located in a home. It will cover your day care business. It must be purchased in addition to Homeowner's Insurance and will prob-

ably cost more than a typical Homeowner's Policy. Some insurance companies will sell this kind of policy to day care providers and children's programs even if they are unlicensed.

4. *Waiver Agreements.* Write a Waiver of Liability and require that all parents sign it before you accept their child(ren) into your home. Courts do not like waivers, but they are much more likely to enforce a waiver where a signer (parent) had a choice and decided that giving up the right to sue the provider was a fair trade for getting the service they wanted (your care of their child). Write a waiver that clearly states that such a choice was made; it may prevent parents from suing you—or from winning if they do sue.

If you have no insurance coverage, you will want to use the *Liability Agreement* (Form D). You can copy this form and fill in the blanks to apply to your situation, or you can modify it.

- **Will incorporation of my program protect me from being sued?**

If your program is incorporated, you probably believe that you are protected from personal liability for accidents or injuries to children enrolled in the program. However, if the day care program is owned by only one person or by a married couple, it may be impossible to incorporate it effectively. This is because if a corporation is sued, the judge will look at the form of ownership. If one person or a married couple own and run it, the judge may decide that it is not a real corporation and hold you personally liable for any judgment. Furthermore, incorporation won't protect you from being sued and having to pay a lawyer to defend you. A good insurance policy both protects from having to pay if you lose a suit and pays a lawyer to defend you. For more information about this, contact the Bay Area Child Care Law Project or an attorney.

- **What protective steps should I take if my child care program includes field trips?**

If your program includes field trips, explain this to parents when they enroll their children. Tell them how often you plan to take trips and the kinds of places you will go. *Require* each parent to sign a *Field Trip Permission Form* when the child is enrolled (see Form E). You may decide to agree to notify the parents of each trip ahead of time, or you may want a general permission form and an agreement that the child can go on all trips. If you do agree to notify parents of each trip, be sure you do so. Otherwise your permission form's legal effect is weakened. Keep the permission forms with your other records.

- **How can I protect myself from liability when I take the children on field trips?**

The same kinds of protection are available for field trips as for your regular activities, but none of the three kinds of insurance coverage described above will protect you from lawsuits *if a child is hurt when being transported in an automobile.* They may not cover children who are on a field trip away from the home even if they are not in an automobile.

There are two ways of protecting yourself in such situations:

1. *Automobile Insurance Coverage.* This kind of coverage can be obtained in two ways.

(a) Increase the dollar coverage of your present auto insurance policy (up to $300,000 is recommended) and require that any assistant caregivers or parents who drive children in their car while under your supervision have equal coverage. This may not be effective if the insurance company can prove (should a lawsuit develop) that your car was regularly used for business purposes and you had not told your agent that it was. The cost of raising the level of coverage, for example from $100,000 to $300,000, is not high. It will probably be only 10 to 20% of the basic premium.

(b) Purchase a special *business automobile* policy, which is designed to cover businesses which transport people. This policy is expensive (about $500+ per year) and is often difficult for family day care homes and other "non-institutional" children's programs to find. Call BANANAS or your local "R and R" agency.

2. *Waivers of Liability.* Write Waivers of Liability for Field Trips and require all parents to sign them before you take their children on field trips. (See preceding discussion on Waiver Agreements.) (A sample Field Trip Permission with Liability Agreement is Form F.)

- **What if my program includes special things like trips to dancing classes with parents driving?**

You can write permission forms and/or liability waivers to suit your particular program. The key is to be sure that parents are *informed* clearly and accurately of what you will do with their children and that they *consent* to all activities in which their children participate. (See Special Field Trip Permission Form G.)

- **What if my day care home is rented?**

Your landlord may be uneasy about your using the home or apartment for day care. It is difficult to keep day care a secret, and attempting to do so could lead to serious problems. It will save many headaches later if you explain your plans to the landlord and reassure him or her that you are and will remain a responsible tenant. Furthermore, your landlord or your licensing worker may require that you get your landlord's written permission to provide day care, and/or that you buy insurance or sign a waiver relieving him/her from liability should a child be hurt. Insurance for your landlord can be purchased with the standard day care policy. Two sample waivers, Forms H-1 and H-2 are included. Use the simplest form your landlord will accept.

- **I own my home and want to protect it in case I'm sued. How can I do this?**

You can protect part or all of the value of your home by "Homesteading" it. Under California law, a person who is either a "head of household" or aged 65 or over can protect up to $40,000 of the home's value.[1] A "head of household" is defined as any person who lives in his or her own home and has one or more dependents.[2]

- **How do I "Homestead" my house?**

Homesteading is not expensive and it is not difficult to do yourself. Any homeowner, particularly one with a family day care business, should file a Homestead. Here is how to do it:

1. Buy a Homestead Form from your local stationery store (cost, about 30¢). Be sure to buy the appropriate form: "Husband and Wife"; "Unmarried Head of Household"; "Unmarried, Not Head of Household"; "Husband"; or "Wife."

2. Fill out the front of the form. It is a simple form with blanks to fill in. To do so, you will need a legal description of the property you are homesteading. The property description is a legal description. Copy it from your Deed onto the form. Be sure you copy it *exactly* and *completely* as it appears on the Deed.

3. Have the back of the filled-out form notarized by a Notary Public (cost, approximately $3). (Your savings bank may do this at no charge.)

4. Take the completed, notarized form to your County Recorder's Office, usually located at the County Courthouse, and file it there. The cost for filing in Alameda County is $4 per page.

5. When the stamped, dated and filed form is returned to you, keep it in a safe place with your other important papers, including your Deed.

Note that if you have filed a Homestead as a husband and wife and later divorce or separate, you should re-file as an individual homeowner.

The Family Day Care License

"What is a Family Day Care License and must I have one?"

The License is issued by the State of California and legally entitles you to care for children in your home on a regular basis for pay. If you care for children regularly for pay and are not licensed, you are technically breaking the law. An estimated 65-75% of the family day care providers in California are unlicensed, however. This is either because the provider doesn't realize she is required to have a license or because the provider has decided she prefers not to be licensed for one reason or another.

Women have been taking care of each other's children in exchange for money or other items for centuries. Under California law, doing so requires a license from the state. A license is required any time one person cares for another person's child in the caregiver's home if the care is provided *on a regular basis* or *if money is paid* for the care.

To obtain a Family Day Care License, you must (1) attend an orientation meeting; (2) complete the required application forms; (3) submit your fingerprints to the licensing office; and (4) be interviewed in your home by your licensing worker (a trained social worker). These are the basic legal requirements. Some counties, however, add further steps to the process.

Becoming licensed is not difficult, but it can sometimes be frustrating and slow. To decide whether or not you want to be licensed, consider the information in this chapter and talk to the people at the local family day care association and at the information and referral office in your community. To learn about licensing in your county, call the licensing office, the day care association, or the information and referral office.

- **Where do I obtain a Family Day Care License?**

Contact your local day care association, information and referral agency, or licensing office for this information. Family day care licenses are issued by the State of California. The state can either set up a state office for licensing in a county, or it can pay the county to issue the licenses and enforce the laws relating to family day care. In Alameda County (and most other counties), the County Department of Social Services licenses family day care homes.

- **What must I do to obtain a Family Day Care License?**

Begin the process by calling the local licensing office. In Northern Alameda County, call 639-4763. The exact procedure varies somewhat from county to county, but these are the basic steps.

1: Orientation

Most counties require that you begin the process by attending an orientation meeting. At that meeting, you will learn what is legally required of you and what steps you must follow to become licensed. You will probably be given the necessary application forms. However, some counties will not give the forms out to applicants. Instead, they require applicants to schedule an appointment with their assigned licensing worker (who is a social worker). At that appointment, the applicant will be interviewed and the worker will fill out the forms.

2: Fingerprints

As a part of the application, the provider must be fingerprinted. All adults who reside in the provider's home or who are in regular contact with the children must also be fingerprinted. This can be done at some licensing offices. If your county does not provide free fingerprinting, the local information and referral agency may be equipped to do so.In all counties, the Department of Motor Vehicles, the Police, and the Sheriff's Department provide this service for a small charge. In Northern Alameda County BANANAS provides free fingerprinting. Call first for an appointment.

Once you have turned in all the required sets of fingerprints, they are sent to the State Department of Justice in Sacramento. Your license cannot be issued until all the fingerprints have been checked and the "Criminal Record Clearance" form returned to your licensing worker. If you or any other person who is required to be fingerprinted has been convicted of any crime other than a minor traffic violation, the county licensing office *may* refuse to license you on the basis of the conviction.[1] If your license is denied on this basis, you are legally entitled to request the state to issue a "waiver" which would allow you to be issued a license. For information on how to make this request, see Form I. Basically, the state licensing officials must be convinced that the person with a conviction record is of "such good character as to justify issuance of a license."[2]

3: Home Visit

After all necessary forms and sets of fingerprints are complete, your licensing worker will schedule a home visit. If you are married and your spouse lives with you, he may be required to be present for the home visit and be interviewed with you at that time.

At the visit, the licensing worker will talk to you about your background and your views on children. S/he will check your house to see if there are any conditions dangerous to children. If the licensing worker feels that your home contains dangerous conditions severe enough to pose a "life safety risk" to the children, s/he must deny your license.[3] If this happens, you should ask for a *written* statement of why the license is being denied. You can then either appeal the decision or change the "dangerous conditions" (see below).

4: Issuing the License

During or after the home visit, the worker will decide whether or not you should be licensed, and for how many children. Family Day Care Regulations specify a maximum of 6 children for the regular license and 12 for the group home license. This number includes the provider's own children who are under age 12.[4]

- **How long will it take to get my license?**

It can take from six weeks to six months, depending on where you live. Because many licensing offices are understaffed and because it takes at least 30 days for the fingerprints to be processed, it is not unusual to wait two or three months for a license. You can avoid unnecessary delays by filling out all forms completely, turning in all required fingerprints promptly, and keeping all appointments with your licensing worker.

Family day care advocates throughout the state are working to shorten the time required to process a license. If you want to help in these efforts, contact your local day care association or information and referral office.

- **Can I begin taking care of children while I am waiting for my license?**

This question is often asked because waiting two or three months is very difficult when the provider needs the income and so many children need care. However, according to the law, you cannot care for children until the license is issued to you.

Therefore, you should not begin caring for children until you have either (1) received the license itself or (2) been given permission to begin by your licensing worker.

Because some licensing offices are understaffed, licenses which have been approved may not be typed and mailed to providers for several days or even weeks. If this happens to your license, ask your worker to give you written or verbal permission to begin providing care during this period of clerical delay. Written permission is better than verbal permission, but may be harder to obtain. If you receive verbal permission, make and keep a record of the date and time of the conversation and of the person giving you permission.

- **What is a "registered" family day care home?**

In many states, family day care homes are registered rather than licensed. Under a 1979 California law, three counties (including Alameda County) will conduct a pilot project of registering instead of licensing homes for six children. Registration is much like licensing except that the process is speedier and a home visit is not usually required. A registered home has the same legal status as a licensed home. It has the same legal rights (including the right to buy insurance) and is governed by the same regulations as a licensed home.[5]

Alameda County providers with questions about this pilot project should contact their licensing office or Arlyce Currie of BANANAS (658-7101).

- **If I am now operating an unlicensed family day care home and decide to become licensed, what will happen?**

This is a difficult question to answer, because what will happen depends on the policy of the local licensing office and on the individual worker assigned to your case. Legally, you can be required to stop caring for children until your license is issued. In the past, some offices and some workers required this even if the home was safe, provided good care, and complied completely with the laws and regulations applicable to licensed homes. Because of a 1979 law,[6] licensing offices can no longer do this. They are legally required to accept your application, process it as quickly as possible, and allow you to continue operating while the license is being processed. Unlicensed providers can be required to stop operating only if the provider refuses to become licensed, or if the home is unsafe.

If you are presently operating an unlicensed home and are considering becoming licensed, talk to the local information and referral office or to a friend who is a licensed provider to find out how unlicensed homes are presently being handled in your county. If you receive a letter ordering you to cease caring for children, consult a lawyer.

- **What are the advantages of being licensed?**

Aside from the fact that the law requires you to be licensed, there are many advantages to having a license.

1. Only licensed family day care providers are entitled to special treatment in deducting business expenses when they pay their income taxes.

2. Licensed providers can obtain inexpensive and effective group insurance for their homes.

3. Licensed providers can receive referrals from information and referral offices and other agencies.

5. Licensed providers are eligible to care for children in government-funded subsidized programs, and these are becoming more and more common in California.

6. Licensed providers can join family day care associations where providers meet and support each other.

7. Licensed providers can use Small Claims Court to collect money owed to them.

8. Many parents see the license as the state's stamp of approval on the home.

And finally, you will probably have more peace of mind knowing that your home is "legal."

- **Are there any disadvantages in being licensed?**

Aside from the problems of becoming licensed and the delays often involved, the primary disadvantage is visibility. When the licensing authorities know that you are providing child care, they may check up on you. For example, if your home doesn't meet all the technical requirements for a day care license, the worker may require you to make changes or close your home. These technical requirements include the number of children you care for, the ages of the children, the number of hours you yourself spend in the home each day, whether you live in the home or use it only for day care, and many others. To learn all requirements, read the California Family Day Care Regulations.[7] They may be obtained from your local licensing agency, or by writing to the address listed at the beginning of this chapter.

- **What are the disadvantages in not being licensed?**

Besides not having the important advantages listed above, you also run the risk of being discovered by the authorities. This can happen if a parent, a neighbor, or anyone complains to the licensing office about your home. Whenever a complaint is received, a licensing worker is legally required to visit your home. If the worker discovers that you are unlicensed s/he must either require you to apply for a license or require you to stop taking care of children. If the worker considers your home unsafe, she will require you to apply and order you to stop caring for children until your home is made safe.

- **How many children can I care for when I get a license?**

According to California law, you can be licensed for six children if you work alone and for 12 children if you have an assistant or a partner working with you.[8] The total number *includes* your own children who are under age 12. Thus, if you work alone and have two children of your own under age 12, you can be licensed for no more than four day care children. As the law is presently interpreted, this applies even if your own two children are in school during the entire time your day care home is open!

Six is the *maximum* number when only one caregiver is present. In the past, this sometimes meant that licensing workers would license for any number *up to* six. This practice has now been changed so that all licenses are for six or 12 chidren. If you are currently licensed for fewer than six children (including your own), you may want to contact your licensing worker to ask that the number be raised to six.

- **What is the group home license for 12?**

When two caregivers are present in a home, it can be licensed for up to 12 children.[9] However, obtaining the license for 12, called the large or group home license, is not as easy as obtaining a regular license. There are several reasons:

1. Going above the number six triggers other legal requirements, including a building safety clearance and sometimes a zoning clearance. (For details see next chapter.)

2. The day care regulations themselves require licensing workers to issue the license for 12 only when there is "adequate indoor and outdoor space,"[10] and do not state what "adequate" means. Thus different workers can require different amounts of space. The decision can become a subjective one.

3. The regulations require that all assistant caregivers be fingerprinted and cleared through the Department of Justice.

4. Some licensing offices will not issue the license for 12 to anyone who has not previously operated a day care home for six or fewer children.

5. Some licensing workers oppose the large home license and so are very hesitant to issue one.

6. Hiring an assistant makes you, the provider, an employer with certain legal responsibilities. See Chapter 13.

If you want to be licensed for 12 children, read Chapter 4 and talk your plans over with your association, your information and referral office, and/or your licensing worker. More and more providers are requesting this license. And, although the process of getting one can be discouraging, many family day care providers, associations, and advocates are working hard to simplify it. Contact them and/or the Bay Area Child Care Law Project for help and to share what you have learned about the license for 12.

- **What are the laws regarding licensing and operating family day care homes?**

Family Day Care homes are governed by the California Health and Safety Code and by Administrative Regulations which are written by the State Department of Social Services, Community Care Licensing Division.

The Regulations contain the specific and detailed requirements. Both the code and regulations are subject to change. To obtain copies and to date both, contact your licensing office or call or write:*

Community Care Facilities Licensing Division
California Department of Social Services
744 P Street
Sacramento, CA 95614
(916) 322-8538

---

*Outside California, you may obtain the appropriate licensing agency from your local Child Care Information & Referral Service, or by looking under likely headings in the State or County listings.

- **What happens when my license expires?**

The license expires after two years. You should receive a renewal application in the mail 45 days before your license expires. You may have to remind your worker. You must fill it out and submit it to the licensing department 30 days before your license expires.[11] Your licensing worker will make another home visit before renewing your license.

Local Laws Which Govern Your Day Care Home: Fire, Building & Zoning Ordinances

"What does the law require me to do besides get a license?

Depending on where you live and how many children you plan to care for, you may also need the approval of your local fire, building, and/or zoning department. Ask your day care association or the local information and referral agency what requirements apply to you.

City and county governments vary somewhat in their requirements for family day care homes. The requirements that apply to family day care homes in your community will *probably* have to be met before the licensing agency will issue you a state license. If you plan to care for six or fewer children, you will probably need approval only from your licensing agency. The other, more difficult local requirements usually apply only when you want a license for a large family day care home, one for seven or more children. If you want this kind of license, you may need approval from your city's fire and/or building inspector and from the city zoning authority.

Part I of this chapter discusses fire and building safety requirements. Part II discusses zoning requirements and relationships with neighbors. If you have questions about what requirements apply in your community, ask your day care association or information and referral agency.

Your licensing worker can also give you this information, but sometimes raising the question makes the worker delay your state license until you have gotten all the other required permits and approvals.

I. FIRE AND SAFETY REQUIREMENTS

- **What is the Fire Safety Inspection?**

When you plan to care for six or fewer children, the Fire Department may make a simple fire safety check of your home. When you plan to care for seven or more children, the Fire Department may also be the agency responsible for detailed Building Safety Inspection.

In the simple inspection for six children or fewer, the fire inspector checks for adequate means of leaving the house, adequate fire extinguishing and alarm systems (smoke detectors), safe storage of combustible or explosive materials, and an emergency evacuation plan. Basically, in order to "pass" this inspection, you need (1) a safe and fast way of leading or carrying all the chidren out of your house in case of fire; (2) a smoke detector for the main rooms of your house, usually including hallways, (3) one or two fire extinguishers of the proper type; (4) a place which is out of the children's reach and/or locked where you store all materials that might catch fire easily or explode; and (5) a written *plan* for getting the children out of the house in case of fire or other emergency (The *plan* is a drawing of the floorplan of your house with arrows and lines showing how the children can quickly get out of each room or area you use for daycare activities, including naps and snacks.

Although state law[1] requires this inspection only for homes caring for six or more children, some communities require it for all family day care homes. State law also requires that this inspection be free of charge.

- **What can I do if my home doesn't pass inspection?**

You will probably only need to buy more smoke detectors or a new fire extinguisher. However, if the problem is more serious, you may decide to change a part of your home in order to meet the requirements. (See Chapter 15: OBTAINING LOANS.) If you can't or don't want to make changes, and if you think your home is fire-safe, you can request that an "Alternate Means of Protection" be approved by the fire department. For example, where a two-hour fire-resistive wall is specified in the code, sometimes painting the wall with fire-resistive paint is considered an alternate means of protection. If your request is denied, you can appeal to the State Fire Marshal.

If the State Fire Marshal denies the request, you can appeal the decision to the State Board of Fire Services: 7171 Bowling Dr., Suite 800, Sacramento, CA 95823.

- **What is the Building Safety Inspection?**

This inspection is required *only* if you plan to care for seven or more children. It is much more complicated than the Fire Safety Inspection and there is usually a small ($20-30) charge for it. Local law requires it when ever there is what is legally called a "change of occupancy" in the home—in family day care, this means when you change your home from being simply a residence to being a residence *and* a day care business. The law defines a home where you care for six or fewer children as a residential use of your home; in most communities, the law defines a home where you care for seven or more children as both a residential *and* a day care facility use. When you pass the inspection, you receive what is called a "Certificate of Occupancy." Depending upon the governmental organization of the city you live in, this inspection will be done either by the Fire Department or by an inspector from the Building Department or Public Works Department.

- **What laws govern these inspections?**

The Building Safety and Fire Inspections are based on both state and local law. In almost every city and county throughout California the written laws are virtually identical to each other. However, the local departments which

NORTHERN ALAMEDA COUNTY CITY REQUIREMENTS*

City	Requirement	Applies When	Contact	Fee	Code
Alameda	Cert/Occupancy	more than 6 children	Building Dept. City of Alameda City Hall Oak & Santa Clara Alameda, CA 94501 552-4100	None	Uniform Bldg. Code, 76 ed.
Albany	Cert/Occupancy	more than 6 children	Albany Bdlg. Dept. 1000 San Pablo Albany, CA 94706 644-8542	None	Uniform Bldg. Code, 76 ed.
	Use Permit (Hearing Required)	more than 6 children	Planning & Zoning Department City of Albany 1000 San Pablo Albany, CA 94706 644-8543	$100.00	Local Ordinance
Berkeley	Cert/Occupancy	more than 6 children	Code & Inspection City of Berkeley 2180 Milvia St. Berkeley, CA 94704 644-6550	$74.50	Uniform Bldg. Code, 73 ed.
	Administrative Use Permit	7 to 12 children	see below	$37.50	Local Ordinance
	Use Permit (Hearing Required)	13 or more children	Zoning Division 2180 Milvia St. Berkeley, CA 94704 644-6570	$127.50	Local Ordinance
Emeryville	Certificate of Occupancy *and* Use Permit (Hearing Required)	more than 6 children	Emeryville City Offices Building Inspection 2449 Powell Emeryville, CA 658-8732	$15.00	Uniform Bldg. Code, 76 ed.
Oakland	Cert/Occupancy	more than 6 children	Housing Office Oakland City Hall 14th & Washington Oakland, CA 94612 273-3381	$85.00	Uniform Bldg. Code, 76 ed. with Oakland amendments
Piedmont	Cert/Occupancy	more than 6 children	Bldg. Inspection Piedmont City Hall Vista & Highland Piedmont, CA 94611 273-2020	None	Uniform Bldg. Code, 76 ed., Nat'l Electrical Code, 75 ed., & local ordinances.
	Use Permit	6 or more children	Public Works Dept. (same as above)	$50.00	Local ordinance

---

*All East Bay cities require a fire clearance for homes with more than 6 children. There may be a charge of $15-$30 for the inspection.

apply the law vary considerably in their interpretations of it. A department or an inspector may be either strict or lenient in issuing "Certificates of Occupancy" for family day care. If the inspector doesn't approve your home, ask for the reasons and ask exactly what you need to do to meet the requirements. If possible, get this in writing.

- **What will the Building Safety Inspector look for?**

The major things the inspector will check for include the number of stories of the building, the building's location on the property, the number and placement of exits, and the structural materials. Providers sometimes have difficulty meeting the requirements of this inspection.

You could run into problems meeting the building requirements if (1) your house is more than one story, (2) is made of wood, (3) there are only two exits and one or both are through the kitchen, not level with the ground, or hard for children to open without help.

In addition, some cities require that homes for seven or more be accessible to the disabled. Whether or not this regulation must be applied to family day care homes has not yet been settled legally. If it is applied to day care homes in your city, unless your home has at least one ground-level entrance, you will be required to build a ramp to one entrance. Many cities will waive this requirement if you request. If you decide to add a ramp or make other changes to accommodate the disabled, contact the Center for Independent living, 2539 Telegraph Avenue, Berkeley 94704, for information about government assistance and/or tax benefits for these projects.

In some cases remodelling may be necessary before you can be licensed to care for more than six children. (See Chapter 15 on Loans.)

- **Where can I find out the exact requirements for a home for more than six children?**

The State Fire Marshal's Code[2] applies throughout California. The Uniform Building Code "UBC,"[3] 1976 edition, is the law applied by most California cities. These two codes (sets of laws) are almost identical. To find out what the *local* laws are in your community phone or write City Hall and ask what Building Code and what edition of that code will be applied by the inspector. Also ask if the city has made any modifications of that code related to day care.

The UBC code book is available at law libraries (located at city and county courthouses and usually open to the public). Law libraries are always equipped with copying machines, and you can copy all the sections applicable to family day care for $2-$3. Many bookstores sell the code, but it costs over $25. When you have a copy of the appropriate code book, look for all requirements for "day care facilities for more than six children." In the 1976 edition, read Chapters 1 and 2, general information; Chapter 5; "Classification of all Buildings . . . and General Requirements" (see Table

5-A, pp. 54-55); Chapter 8, "Requirements for Group E Occupancies"; Chapter 33, "Stairs, Exits and Occupant Loads" (see Table 33-A, pp. 519-520).

The State Fire Marshal's Code and its detailed regulations (called "Title 19")[4] are available from the State Fire Marshal's office ((415) 357-8173) and sometimes from the local Fire or Building Department. (They are also available at law libraries but are difficult for non-lawyers to find and use.) These laws are also based on the "UBC" and so are very similar to local laws.

- **What can I do if my home is not approved by the Building Inspector?**

You have several choices. You can be licensed for six children or fewer, you can make the required changes in your home, or you can ask that the inspector (or his superior) approve your home on the basis that it is safe even though it doesn't meet the precise requirements of the code. This can be done by approving an "Alternative means of protection" or by waiving (not applying) certain provisions to individual homes.

If you decide to ask that the inspector approve your home because it is safe, request an approval based on what is called an "Alternate Material or Method of Construction." The law states that if the material or design is, "for the purpose intended, at least the equivalent of that prescribed . . . in quality, strength, effectiveness, fire resistance, durability, and safety," the building official can approve its use.[5]

You can also request that certain requirements be waived altogether. A waiver will probably be granted only when the requirement does not relate to safety (for example, the requirement that your home have an access ramp).

If you decide to make changes in your home and need a loan to do so, see Chapter 15: OBTAINING LOANS FOR YOUR FAMILY DAY CARE BUSINESS.

- **Where can I get legal help with this?**

You can probably get help from the Bay Area Child Care Law Project (primarily for providers in Alameda and San Francisco Counties) and through your local information and referral service or family day care association.

II. ZONING REQUIREMENTS AND RELATIONSHIPS WITH NEIGHBORS

- **Will I have to get a Zoning Permit for my day care home?**

A new California law, passed at the urging of family day care providers and advocates in 1979, prohibits cities in this state from requiring a Zoning Permit for day care homes for six children or fewer.[6] However, if you want to be licensed for seven to 12 children, your city *may* require a Zoning Permit, called a "Use Permit." The exact requirements vary from city to city, and within a city the requirements vary according to neighborhood. Neighborhoods zoned R-1 (single-family homes) are the most likely to require a Use Permit. Neighborhoods zoned for multiple-family homes (duplexes and apartment buildings) may or may not require a Use Permit. Neighborhoods zoned for commercial use (stores, restaurants, etc.) seldom require a Use Permit for day care homes.

Cities which realize the value of having adequate child care resources for families within the community do not require any Zoning Permit for family day care homes licensed to care for up to 12 children. They do this by defining all family day care as "residential use" of the home. In Alameda County, Oakland was the first city to do away with all zoning restrictions for family day care. Hayward, Alameda and Fremont have now followed Oakland's lead. With the help of providers, day care associations, and other family day care advocates, perhaps all California cities can eventually be persuaded to follow Oakland. Usually, these changes can be made through your City Council or Board of Supervisors. Politicians and policymakers are often convinced by the argument that child care should be located in residential neighborhoods (as are public schools), that family day care homes don't make much profit, and that they are more of a community service than a business.*

- **How do I find out if my city requires a Zoning Permit?**

This can be a little tricky. If you are licensed to care for six children or fewer or if you live in the cities of Oakland, Hayward, San Francisco, Pinole, Alameda, Fremont or Merced there is no permit required.* However, there is very likely to be a zoning requirement in other cities for homes licensed for seven or more children. The best way to find out is to ask your day care association or the information and referral agency in your city.

The family day care licensing office and the city zoning office can also tell you what the city requires. However, asking either of them may *cause* you to be required to get the zoning permit while other providers in your community who don't make themselves known won't be required to get the permit. The law itself is not the reason, of course. The reason is that few licensing offices and few zoning departments are very concerned about zoning for family day care. Thus in many cases unless you contact the zoning department or unless a neighbor complains to the zoning department, no one will make you get the permit. To make your home fully comply with the law, however, in most cities you must obtain a zoning permit.

---

*This list will grow as providers and other advocates request city governments to change their zoning laws. If you know of other California cities that belong on the list, please contact the author at the Bay Area Child Care Law Project, (415) 495-5498, or at BANANAS, (415) 658-7353.

For information about how to request a change in your city's zoning law, contact the Bay Area Child Care Law Project.

- **What must I do to get the Zoning Permit?**

The process varies somewhat from city to city, but the basic steps are the same. (1) File an application with the city zoning authority (called the Zoning Commission, the Planning Commission, the Board of Adjustments, or something similar). The fee for this application ranges from $15 to over $700 in some cities. (2) City workers will post or mail notices informing neighbors that you wish to use your home for day care for seven to 12 children. (3) People who *favor or oppose* your planned use can write the zoning authorities and/or appear at a public hearing to express their views. Some cities require a public hearing at the zoning commission; in other cities the zoning authorities simply review the written responses (letters and/or petitions) together with your application, and then issue their decision. If a hearing is held, the commissioners will listen to you and your supporters and to those who oppose your planned use. (4) The zoning authorities will do one of three things: (a) approve your request and grant the Use Permit; (b) deny the Use Permit; (c) issue the permit on the condition that you make certain changes in your property or that you operate your day care home in a way that will minimize the inconvenience to neighbors. The most common property conditions are that you fence your yard and that you provide additional off-street parking spaces (usually one or two). The most common operating conditions are scheduling outdoor activities at certain times of the day to avoid disturbing neighbors.

- **How can I make my day care business welcome in the neighborhood?**

While providers and parents know that a family day care home is an asset to a neighborhood, not everyone shares that view. To prevent problems before they arise it is helpful (particularly if a Use Permit is required) to talk with your neighbors about what you plan for your day care home and to assure them that you will be a good neighbor. After all, it's your neighborhood too, and you care about it. Many potential problems can be avoided if you and your neighbors talk things over ahead of time, and if you are willing to consider each other's needs.

In talking with your neighbors, be patient and remember that child care is an unfamiliar phenomenon to many people. Many misunderstand and mistrust it. By talking to your neighbors and by operating a good family day care home, you can help them learn what child care is really like and why it is good for children, families, and communities.

Neighbors usually worry about noise, children playing unsupervised throughout the neighborhood, extra traffic, and the effect of a day care home on property values in the neighborhood.

Begin by assuring neighbors that you will respect their needs as much as you can. If they worry about noise, you might offer to keep the children indoors in quiet activities during certain hours of the day when quiet is especially important to the neighbors—such as before 10 a.m., after 5 p.m., or at nap time. If they worry about children running around the neighborhood, explain that a responsible day care home can prevent this by providing working parents with a place for their children to play after school. Also explain that the children will play in your yard and that when they leave your yard for walks or trips they will always be accompanied by at least one adult. If neighbors worry about extra traffic, explain that there will not be all that many new families driving into the neighborhood and that they won't all arrive at the same time. You can also offer to ask parents to park only in certain places (perhaps in your driveway if you have adequate space), and never to double park. Be sure to explain to parents why this is necessary. If neighbors worry about property values, explain that today for most families with children, a child care facility close to home is an asset to a neighborhood. Explain, too, that your home is primarily that—the home where you and your family live—and that its appearance won't be changed because you also care for children.

And remember to do whatever you have promised your neighbors. If circumstances in your day care home change, talk the changes over with neighbors. You want and need their support. If they like your day care home, your life will be much more pleasant. Here, as in many aspects of family day care, a little preventive work can help you avoid some potentially enormous problems.

Your Legal Rights as a Provider

"What are my rights if I have problems
with my licensing worker or if
my home does not comply with the legal requirements
for a Family Day Care Home?"

Under the laws of California and of the United States, you have many rights. First, you have the right to take any complaints about your licensing worker to the supervisor in your county. If you still aren't satisfied, you can appeal to the state. In addition, under some circumstances, you can take the state and/or the county to court.

The licensing worker assigned to you is responsible for making sure that your home complies with California law and with the Family Day Care Regulations. The worker can also help you get certain regulations waived so that you don't have to comply with them. During the time the worker is processing your license application and throughout the time you operate your home, s/he is legally responsible for monitoring your day care home. If s/he finds that you are violating a law or regulation, s/he is required to take action to end the violation.

However, it is unlikely that you will encounter any problems with your licensing worker if your home is safe and if you are providing adequate care. This is because licensing workers are responsible for hundreds of day care homes and, in most counties, for hundreds of foster care homes as well. Furthermore, many licensing workers are flexible in their interpretations of the legal requirements and will not take action unless they believe that the violations in a particular home create a danger to the safety of children in care.

If you do encounter problems, you have two kinds of rights. First, you have the right to take any disagreement with your licensing worker to the local supervisor, then to the state licensing office, and finally to a state Administrative Law Judge. These are called your administrative rights. Second, if you aren't satisfied with the Administrative Law Judge's decision, you have the right to take your complaint to court. Furthermore, if you believe that California laws and regulations governing family day care are unfair or excessive, you have the right to challenge them in state or federal court. These are called your legal rights.

- **When are problems likely to arise?**

Problems arise mainly (1) when your worker visits your home because you are a new applicant or are having your current license renewed, and (2) when the licensing worker receives a complaint against you. Otherwise, because s/he has a great deal of work, it is unlikely that the worker will contact you or visit your home unless there is some reason to believe that there is a problem.

- **What happens if the worker discovers a problem at a home visit?**

If it is a routine home visit made because you are applying for a first license or for a renewal, and the worker discovers a violation, s/he will probably explain to you what the problem is and ask how soon you can remedy it. S/he is also legally required to make a written report of what s/he observes on the visit and to give you a copy of that report. The state provides one-page forms with carbons for this purpose. Whenever your worker visits your home, s/he is supposed to give you a written report before leaving. This is true whether or not there is a violation. If a violation is found, s/he will note on the report form the date by which you have agreed to correct it.[1] If you cannot or do not want to remedy the violation, or if you think the worker is mistaken in the interpretation of the requirements, you may request that the supervisor review the worker's decision or that the state waive certain requirements.

- **What is a waiver and how do I request one?**

A waiver is an agreement that certain requirements will not be applied to a particular day care home.[2] The county licensing officials have the power to grant waivers. The State has announced that it will encourage the granting of certain kinds of waivers. The State also announced that if many providers request the waiving of a particular regulation, it will eventually rewrite the regulation so that it reflects providers' needs. Thus, asking for a waiver may not only help you, it may eventually help change the law governing all providers in California.

If you are unable, or do not want, to meet certain licensing requirements, request a waiver in writing. Specify the particular requirement(s) you want waived (by Regulation number if possible). Then explain why you can't meet the requirement(s) and/or why you think you should not be required to. A sample waiver request is Form I. Make three copies of the request. Keep one for your records, send one to your licensing worker, and send the original to the State.

State officials will discuss your request with the local licensing officials and eventually reach a decision. The support of your licensing worker or the local supervisor is very important. If you do not have it, your waiver is most likely to be denied by the state. Try to get their support, but if you can't, don't give up hope. Letters or calls of support from parents, other providers, your association, and the local information and referral office will also help. Suggest that they write or call the state and the local office. The process of getting a waiver can be very slow, sometimes taking many months to get an answer.

- **What happens if someone makes a complaint against my home?**

The most common reason for a licensing worker to suspect a problem and make an unannounced ("surprise") home visit is that someone has complained about your home. According to California law, any person can complain to the local licensing agency if s/he believes that a family day care provider is breaking the law or violating a family day care regulation. The complaining person must give her/his name to the licensing worker, who is required to write out the complaint in detail and to sign and date it.[3] This report of the complaint becomes a part of the provider's case record.

The worker is required to make a home visit (called an "on-site inspection") within ten days of the complaint unless it is decided that the complaint was made to harass the provider or has no reasonable basis in fact.

The licensing worker is required to tell the provider what the complaint was about at the time of the home visit, but cannot reveal the identity of the person who complained. If the provider does know who complained, s/he is legally prohibited from retaliating against that person.

The "inspection" is almost always an unannounced visit by the licensing worker. Although many providers object strongly to such visits as violating their privacy and creating an unsafe situation for the children in care, under current California law "unannounced visits" are allowed.[4] A 1979 lawsuit, filed by the Bay Area Child Care Law Project on behalf of a providers' association, challenges the practice of unannounced visits as unconstitutional. Until that suit is decided, providers must submit to unannounced visits.

If your licensing worker makes an unannounced visit, ask to see proper identification and ask what, if any, complaint has been made against you. Then you must let the worker in or risk having your license revoked.

Most licensing workers realize that complaints are usually groundless and are often the result of a disagreement between the complainer and the provider. If you think this is what has happened, explain the situation to the worker. Most complaints end at the time of the home visit, when the licensing worker learns that there is in fact no problem.

- **What if the worker finds that I am doing something wrong?**

If the worker finds or suspects that a violation has occurred, s/he must notify you in writing of any deficiencies or violations of the law. S/he does this by leaving with you or sending what is called a "Notice of Deficiencies." This notice must set a reasonable time period for you to bring your home into compliance with the law—to correct the violation.[5] If you fail to correct the violation on time, the licensing office can begin the process of revoking your license.

- **What can I do if the licensing agency denies my application for a license, refuses to renew my license, or threatens to revoke or suspend my license?**

If your application for a license is denied, the licensing agency must notify you in writing of the denial. You have a right to a hearing if you were denied a license. You must request this hearing *within 10 days of the agency's mailing of the notice of denial.*[6]

A family day care license can be suspended or revoked if the provider violates the law or regulations for family day care or if the day care home is "inimical to the health, morals, welfare, or safety" of a child in the home or of the people of California.[7] When the licensing agency intends to suspend or revoke the license, it must notify the provider of that intention and must serve the provider with an accusation.[8]

The notice and accusation must include a form which, when signed by the provider and mailed or returned to the agency *within 15 days,* enables the provider to have a hearing on the question of suspension or revocation. *Providers who are denied a license or threatened with suspension or revocation of a license have a right to a hearing.*

- **If I demand a hearing, how soon will it be held and what will happen while I'm waiting for it?**

You may have to wait six to 18 months for your hearing.

If you have been denied a first license, you cannot begin caring for children until after the hearing is held and a decision has been made in your favor.[9]

If you have been denied the renewal of your license, the licensing agency may decide to treat you as an unlicensed provider and demand that you stop caring for children until after the hearing. The demand comes in the form of a "Cease and Desist" letter, sent by registered mail by the licensing worker. This procedure is legally questionable, and if it happens to you, you should consult a lawyer *before* you decide what to do.

If your license is being suspended or revoked, you have the right to continue caring for children until the hearing is held and a decision has been made. This is true unless the Director of Licensing at the state level decides that an immediate closing is "necessary to protect the children in the home from any substantial threat to health or safety."[10] This is quite unusual. If it happens, the Director can order you to stop caring for children immediately and you cannot begin again until after a hearing is held. At that hearing you can present your side of the case. You can begin caring for children again only if and when the hearing officer decides in your favor.

- **What is the hearing like?**

It is not like a trial. It takes place in a small conference room and is rather informal. It is conducted by a hearing officer, who is also called an Administrative Law Judge. This is a lawyer employed by the state to conduct and decide cases in which a citizen is challenging an action taken by the state or one of its representatives.[11] You can represent and speak for yourself at the hearing, or you can have a lawyer or friend represent you.

Before the hearing, you have the right to inspect and copy *any files* which are held by the licensing agency related to your case. You also have a right to be told the names of any witnesses the county plans to use against you at the hearing. Look at the Licensing Agency's records ahead of time. Plan what you want to say. Bring witnesses who can support your side of the case. Remember — although the hearing is informal, its outcome is very serious. If the Hearing Officer decides against you, you will not be licensed. And you can't appeal the decision unless you go to the expense and trouble of filing a lawsuit.

It is a good idea to read about Fair Hearings and to talk with a lawyer well before your hearing. If you cannot afford to pay a lawyer, contact the Bay Area Child Care Law Project, the Legal Aid or Legal Services office in your community, or the San Francisco Lawyers Committee for Urban Affairs.

Remember — the hearing itself is *not formal*. The Hearing Officer will tape record the hearing and will ask all who speak to swear that they will tell the truth. You will tell your side of the case and a representative of the county will tell the licensing agency's side. Both sides can present witnesses and evidence (letters, notes, photographs) if they decide to.

The hearing officer will not give a decision at the end of the hearing, but will mail it to you two, three, or several weeks later. If you are not satisfied with the decision, you have the right to appeal it in a regular courtroom before a judge. To do this you will need a lawyer.

- **Can the licensing agency sue me or have me arrested for violating the licensing requirements?**

Licensing agencies sometimes threaten to "take you to court" if you are operating an unlicensed family day care home or if you are violating the law or regulations while operating a licensed home. These threats are seldom made, but when they occur, they are very frightening to the provider and they must be taken seriously.

According to law, anyone who violates day care laws or regulations can be sued.[12] However, this almost never happens because the district attorney is the only one who can file such a suit, and district attorneys are seldom willing to do so.

There are two possible lawsuits. The first kind asks the judge to issue an injunction compelling the provider to stop violating the law or regulations. Usually this would mean ordering the provider to stop caring for children or to reduce the number of children she cares for. It can also include a fine. Under the laws directly applicable to family day care, the maximum fine is $500.[13] However, the Alameda County District Attorney's office has filed two suits under the Business and Professions Code and asked fines of up to $2500.[14] So far, no one has been ordered to pay more than $500 in fines, and even this happens very rarely. The second kind of suit is criminal prosecution of the provider for committing the misdemeanor of caring for children without a license or of violating the law or regulations for family day care.

While the threat of legal action against you is seldom made and even more seldom carried out, if you are sued, it is a very serious matter and you should contact a lawyer immediately. If you can't afford to pay a lawyer, call the Bay Area Child Care Law Project, your local Legal Aid or Legal Services office, or the San Francisco Lawyers Committee for Urban Affairs.

Advocacy and Support for Family Day Care

"I want to meet other people
working in the family day care field.
Where can I go?"

There are many groups working in the family day care field, and they are eager to hear from providers. The groups include associations of family day care providers, information and referral groups, state and national child care advocacy groups, and the Bay Area Child Care Law Project. Any or all would like to have you join their efforts to promote the recognition and development of family day care.

Providers often want to meet other people concerned about family day care. Many want to become active in groups that are working to let the public know the value and importance of family day care. Some providers want to make their own views about family day care known to other providers, to the public, and to the government. Some want to take courses or workshops on family day care or to read more about family day care. If you want to "connect" in these ways, there are many groups eager to have you join them in their efforts on behalf of family day care.

Family day care homes now provide care to approximately six out of every ten children in day care in this country. The vital importance of family day care to children and families is being recognized more and more by parents, the public, the government, and the media. This recognition is due in large part to the work of the groups listed in this chapter — and to similar groups throughout the country. The groups need, deserve, and would welcome your support and ideas. In addition to advocating for family day care, many of them offer support services to providers. These include such things as toy lending libraries, group insurance coverage, workshops, classes, respite workers, consultants, printed information, and more.

- **What kinds of family day care groups are there in my community?**

In most communities, there are two kinds of groups working in the family day care field: family day care associations and information and referral services.

- **What is a Family Day Care Association?**

Licensed family day care providers join together in associations to offer each other friendship, support and services. Each association sets its own priorities and responds to its own members' needs. *All* associations offer their members a way of getting to know other providers, and all offer members group liability insurance coverage at reduced cost (see Chapter 2). Many associations hold workshops for providers, advocate for family day care, sponsor the government subsidy food and vendor voucher programs (see Chapter 14) for family day care, and offer other services to providers.

- **How do I contact my local Association?**

The associations aren't usually listed in the telephone book, so the best way to locate the one in your community is to ask other providers, your licensing office, or the information and referral service in your community. Find out who the current association officers are and how to contact them.

In Northern Alameda County, there are five family day care associations:

The Alameda Family Day Care Association
The Berkeley-Albany Licensed Day Care Association
The South Berkeley Day Care Association
The Oakland Licensed Day Care Association
The East Oakland Family Day Care Association

- **What is an Information and Referral Service?**

These groups are also known as "I&R" or "R&R" (resource and referral) offices. Their primary service is to refer parents looking for day care to programs in the community. Many of the programs referred to are family day care homes like yours. If you want to have parents referred to you, call the local information and referral office and sign up. Tell them the ages of children you will care for and the number of openings you have. There is no charge for this service. Most I&R offices, in order to protect your privacy, will tell parents your phone number and neighborhood, but will not give out your address. If you are concerned about privacy, check this policy when you first sign up with the I&R group.

I&R groups usually offer an array of services to parents and providers. These services may include toy lending libraries, workshops on both business and child development aspects of family day care, government subsidy vendor voucher and food programs, child care advocacy and lobbying with local, state and federal officials, and many others.

- **What is BANANAS Information and Referral Service?**

BANANAS is located in North Oakland and it has served parents and providers since 1973. BANANAS' special support services for providers are:

— Referrals to your program. Call the Provider Line (658-7353) if you have openings.
— Relief care. You can make a reservation to bring your children to BANANAS for a morning of planned activities while you use that time for your important business appointments, etc. (658-7101).
— Developmental Counseling from Betty Cohen, trained Social Worker (658-6046).
— Health & Safety Information from Judy Calder, Registered Nurse (658-6046).
— Toy Lending Library for family day care providers, playgroups and parent co-ops (658-7353).

— Free crafts materials and recycled large equipment like cribs, cots, etc. (658-7353).

— BANANAS publications including: this book; The BANANAS Guide (to activities, resources, and services for families and child care providers in the Bay Area); and the BANANAS Sick Child Care Book. The BANANAS Newsletter and BANANAS handouts (on various child-related topics) are available too. To subscribe to the newsletter or obtain other publications, call or write BANANAS.

— Sample Provider Forms such as provider and parent contracts, emergency forms, forms to let parents know their children have been exposed to a contagious disease, etc. (658-7353).

— Assistance in starting new programs; licensing information and support services, zoning and building safety requirements, help in locating equipment and toys (658-7101).

— BANANAS Workshops, many for college credit through Merritt College, on a variety of topics such as taxes, first aid, fire safety, toy making, etc. (658-6064).

— Employment file and substitute list — listings of people interested in child care jobs or in substituting in your program. (658-6046.)

— Legal assistance and information through the Bay Area Child Care Law Project (658-7353 or 495-5498).

BANANAS is a flexible agency which invites your ideas on what support services you need. BANANAS asks that if something you need is not listed above, you try calling them to get it started. BANANAS address is: 6501 Telegraph Avenue, Oakland, CA 94609,(415) 658-7353.

- **How do I contact my local Information and Referral Service?**

You will probably find them listed in the phone book under "child care." You can also ask friends, other providers, or the licensing office for the local I&R's phone number. If this fails, call or write BANANAS for the local I&R agency in your area.

- **What kinds of family day care groups are there on the state level?**

There are two kinds of statewide groups in California (and in many other states): *associations* of family day care providers from throughout the state; and other *child care advocacy groups* that include as members family day care providers, child care center providers, early childhood education specialists, parents, and child care advocates.

In California, there are three statewide family day care associations:

Family Day Care Association of California
6124 Shattuck Avenue
Oakland, CA 94609

Northern California Associated Day Care Providers
7808 East Parkway
Sacramento, CA 95823

California Federation of Day Care Associations
27617 Cherry Creek Drive
Valencia, CA 91355

In California, there are several child care advocacy groups, including:

Northern California Resource & Referral Network
3896 24th St.
San Francisco, CA 94114

California Children's Lobby
P.O. Box 448
Sacramento, CA 95802

California Association for the Education of Young Children
187 Caselli Ave.
San Francisco, CA 94114

Governor's Advisory Committee on Child Development
720 Capitol Mall, Room 260
Sacramento, CA 95814

- **What kinds of family day care groups are there on the national level?**

There is not yet any family day care association on the national level, but there are several child care advocacy groups. The groups have as members specialists in early childhood education, providers of child care services, advocates for children's rights, officials of the federal government, and others concerned about children. They include:

The Children's Foundation
1420 New York Ave. N.W.
Washington, DC 20005

Day Care and Child Development Council of America
622 14th St. N.W.
Washington, DC 20005

National Association for the Education of Young Children
1834 Connecticut Ave. N.W.
Washington, DC 20009

- **What is the Bay Area Child Care Law Project?**

Building upon the work of BANANAS Family Day Care Law Project, the Bay Area Project is broader in scope, encompassing issues raised in all types of child care programs. It is a legal services and education resource for the child care community. Its services are:

1. *Legal representation and advice* for individuals and groups of child care advocates.
2. *Legal education* through Project workshops and publications designed

for child care providers and advocates, and for attorneys interested in child care issues.

3. *Technical assistance and policy consultations* to child care programs, workers and advocates, to parents, and to government officials.

The Project is funded primarily to serve family day care providers and child care centers in Alameda and San Francisco counties. Where feasible and upon approval of the Project Board, these services will be made available to others. If the Project cannot provide services, its staff will attempt to refer requests to other sources of assistance.

The Project charges no fees for its services. For Project publications, we request payment to cover costs and postage.

A Project Publications list is available from the office, located at: 9 First Street, Suite 803, San Francisco, CA 94105, (415) 495-5498

- **What other sources of support and information are available to me as a family day care provider?**

There are many sources of support and information for family day care providers. Local community colleges and universities, as well as associations and information and referral groups, offer courses in child development and in business-administration designed especially for family day care providers. Printed materials on everything from toy-making to tax-paying are also available. The bibliography on page 141 includes the resources we have found which seem most useful for family day care providers. (If you have other favorites, please contact the author or BANANAS about them so that they can be included in later editions of this handbook.)

Caring for Children Who Are Sick

"What happens when a day care child is sick and the parents ask me to care for the child during the sickness?"

This request is made of providers again and again. For working parents, a sick child creates a crisis and the simplest solution is often to take the child to day care anyway. How you respond to the request to care for a sick child is up to you.

Family day care regulations require only that you have a separate place in your home for children who are (or become) sick while in care and that you keep children with contagious illness separated from the other children. The regulations do *not* prohibit you from caring for moderately sick children.

Because parents depend heavily on their providers for daily care, a sick child care policy, established ahead of time and discussed with each parent, will help avoid last-minute misunderstandings.

Family day care providers are generally more flexible than centers about sick children. However, most will not accept or keep a child who is vomiting, has diarrhea, or has a rectal temperature of 101°. Some providers make their decision based on *how many* symptoms a child has or how much discomfort the child is experiencing.

Whatever policy you adopt regarding sick children, it is extremely important to be sure that parents understand it ahead of time. If you decide to care for sick children, you can get some helpful suggestions from the BANANAS book, *Sick Child Care.* If you decide not to care for sick children, you might check to see if any program in your community offers care for children who are sick. If there is such a program, tell parents about it. If there isn't, you might want to help organize one.

- **What do other providers do about sick children?**

There are many different policies regarding sick children. Some providers refuse to care for children who are even slightly sick. Others care for children unless they are seriously ill or have a contagious disease. Most have a policy somewhere in between. For examples of possible family day care policies regarding sick children, see Chapter 1.

In deciding what your policy will be, remember that sickness in preschool children is inevitable. The average preschooler gets five to seven colds yearly. Flu and diarrhea are also inevitable. In determining your own sick child care policy, ask yourself these questions:

> Do I feel capable of caring for mildly sick children?
>
> Do I have a safe, comfortable, separate space in my home where a tired or infectious child could rest?
>
> Can I care for more than one sick child at a time?
>
> Will I be able to maintain my own health?
>
> What is my relationship with the families I serve?

Am I an extension of the family — willing to care for the children in a variety of circumstances — or do I want a more formal, less flexible policy?

- **What is my legal duty regarding sick children?**

The Family Day Care Regulations discuss sick children in Section 86035(h): "The caregiver must evaluate each child daily for illness, at the time the child arrives at the home. When a child shows signs of illness he or she shall be separated from other children, and the nature of the illness shall be determined. If it is a communicable disease, he or she shall remain in isolation until the infectious stage is over."

This regulation means that you should have a room separate from the group play area where a sick child can rest or play. If you notice that a child seems sick, you should check to see what is wrong. If the child has a fever or other symptoms that lead you to believe s/he may have a contagious illness, you should either have the child stay in the separate room until the symptoms go away, or you should ask the parents to take the child home until the symptoms are gone.

- **What should I do if one of the children comes down with a contagious disease while in my care?**

If a child is getting sick with a contagious disease, such as chicken pox or strep throat, the provider has the responsibility to inform other parents so they can watch for signs of illness in their children. (See sample *Exposure to Illness Notice* Form J.)

- **Can I give the child medicine?**

You can, and most providers do. However, this is your decision. Some providers will not administer medicine of any kind. If you decide that you will give medicine, you *must* have legal authority to do so. It is *very important* that you read and follow the advice below. (Examples of day care home rules about medicine are in Chapter 1.)

- **What kind of permission do I need to give medicine to day care children?**

You need the *written permission* of the parent to administer any medicine. As long as you have written permission which is signed and dated by the parent, you are legally entitled to give medicine to children in your care.

It is safest to require the parent to fill out a *Medication Authorization Form* (Form L) each time s/he asks you to give a child medicine. The form protects you and it insures that the medicine will be safely administered.

Whether you use a prepared form or not, you should require the parent to specify (1) the date, (2) the name of the medication, (3) the dosage, (4) the times it is to be given, (5) how it should be given, and (6) the length of time during which medication should be administered.

- **What precautions should I take in handling the medicine?**

It is very important that you *plainly mark the child's name on the medicine container,* give it in the dosages and at the times indicated, and *store it out of reach of all children.* It is also a good practice to *keep a log of the medicine and the times it was administered.* That way, you have a record showing that you followed the directions and when the parents arrive, you can tell them when the medicine was last given.

Special thanks to Judy Calder, R.N., author of BANANAS' *Sick Child Care,* for her help with this chapter.

Caring for Children with Special Needs

"What if a parent asks me
to take care of a child
who has a disability?"

As more parents return to work, the demand for child care services will increase. Many of these parents will have a child with a physical, mental, health, or emotional disability, and will need your care. Whether you would care for such a child, one with special needs, is something you should seriously consider.

8

This short chapter will help you decide whether you want to care for a disabled child in your home. Your decision will depend on whether you already have certain skills (sign language, for example), and on whether you have a willingness to learn about the needs of these children and how to care for them.

You should know that:

—many children with special needs can be integrated into your present program without changes in your routine or space;

—support services exist to assist you when you decide to care for a special child;

— and, *best of all*, the experience can be rewarding for everyone (children and adults) involved.

- **Can I care for a special child?**

To begin finding the answer, ask yourself two questions: "Do I want to?" and "Do I like all kinds of chidren?" If your answers to these questions are *yes*, then you can care for special children. And, some parent may be in desperate need of your service.

- **Who is a special child?**

A child with special needs is one who, because of physical, emotional or health reasons, requires some special care. The kinds of disabilities vary greatly—from simple allergies to moderate retardation to a child with a terminal illness. No one approach can be applied to all children, of course. However, there are some basic principles to keep in mind.

Children with disabilities are more *like* other children than they are different from them. Children should be encouraged to help themselves as much as they can. A balance is necessary: give enough freedom, but don't push too much. Children like to follow routines. The daily routine should include exercise, play, good food and fresh air.

- **Do I need special training?**

Because caring for a special child is always an individualized matter, special training is usually not necessary. Much of what you need to know you will learn as O.J.T.—On-The-Job Training. If you feel that you would enjoy providing this kind of service, your willingness to accept the challenges and rewards is the main "qualification" for the job.

- **Do I need a special license?**

Not if you take care of non-disabled children as well as disabled children. With a family day care license, you may take care of special children.

- **Do I need to make changes in my house?**

Not necessarily. This will depend on the children's needs and on the kind of house you live in. If you decide that you want to make changes in order to better serve children with special needs, government funds or tax benefits may be available for this purpose. In Alameda County, call the Center for Independent Living (548-4274) for more information.

- **What is the major new law regarding disabled children?**

The "Education for all Handicapped Law" (PL94142) is the major law. It is meant to serve children from three years of age until they enter their local school district. If you are caring for a child under age three, you should advise the parents to contact their School District's Department of Special Education (listed in the phone book). They should inform the district of their child's needs so the district can begin planning a special program for the child.

- **Where can I go for help?**

As a caregiver, advice and assistance are available to you from many sources, including

Parents—share your observations with them; consult them; keep in close contact with them.

Agencies—seek out services which offer to follow children with special needs.

Books—read as much as you can about the child's disability, but take directions from the parent.

- **Do referral services assist special needs families and providers?**

Yes. For example, BANANAS offers a consultation and referral service for families with special needs children and for providers who care for children with special needs. If you are an Alameda County provider who desires to care for a special child, please let BANANAS know. BANANAS would like to include you in its list of providers for special needs children. Parents of disabled children need day care as much as parents with normal children. And you could be very important in the parents' lives and in the lives of their children.

- **Are there books and resources to help me learn more about special needs children?**

Yes. The following list of books and community resources, while not exhaustive, will offer some assistance. Remember: you can find the resources in your community by calling your local resource and referral office. In Alameda County, call and speak with Nurse Judy Calder (658-6046) about any concerns regarding a special child or a child you suspect may be having problems.

COMMUNITY RESOURCES

BANANAS, Inc.
6501 Telegraph Ave.
Oakland, CA 94618
658-6046

Judy Calder, R.N. assists parents in finding child care for their special needs children and consults with providers who care for special children.

Children's Hospital Medical Center
Child Development Clinic
51st and Grove Sts.,
Oakland, CA 94609
(428-3000)

Contact—Director Hours: 8:30 - 5:00

Services available include: initial screening assessment, medical and neurological evaluation and specialized treatment, psychological assessment and therapy, evaluation of sensory function, speech and language assessment and therapy, laboratory tests, home visits by public health nurses, parent counseling, physical and occupational therapy, education planning, genetic counseling.

Regional Center of the East Bay
Latham Square Building
508 16th St.
Oakland, CA
451-7273

Outreach coordinator or intake social workers Hours: M-F 8:30 - 5:00

Assists in purchasing needed services, including day care.

United Cerebral Palsy of Alameda and Contra Costa Counties
1904 Franklin St.
Oakland, CA 94612
832-2013

Supervisor of Client Services Hours: M-F 8:00 - 5:00

Alameda County Developmental Disabilities
Planning & Advisory Council (DD Council)
449 Fifth Street, Room 100
Oakland, CA 94607
874-7554

Developmental Disabilites Coordinator Hours: M-F 8:30 - 5:00

Coordinates local public and private programs and services, information and referral to persons calling.

California Childrens Services
499 Fifth St.
Oakland, CA 94607
874-5993 Hours: M-F 8:30 - 5:00

The service will provide funds for diagnostic and treatment services for families who are financially eligible. Therapy provided.

Alameda County Association
for the Mentally Retarded (ACAMR)
7808 Capwell Drive
Oakland, CA 94621
632-4300

Social Worker

Offers educational and support services to families with children who are retarded. Also will assist families in finding development centers for the infants or pre-school children.

Children with Hearing Problems

Deaf Counseling and Referral Agency
(D.C.A.R.A.)
1320 Webster St.
Oakland, CA 94612
465-9552

Director Hours: M-F 9:30 - 4:40

Offers services to the deaf community.

Miscellaneous

Medic Alert Foundation
P.O. Box 1009
Turlock, CA 95380
(209) 632-2371

President Hours: 9:00 - 5:00

The organization provides the "Medic Alert" emblem, worn on wrist or neck, with engraved information on medical problem, file number of wearer, person to be notified in an emergency. One-time only registration for small fee.

Disability Law Resource Center
of the Center for Independent Living, Inc.
2539 Telegraph Ave.
Berkeley, CA 94704
548-4274

The Special Education Unit will assist families in seeking their legal rights and special services for their disabled children.

HELPFUL BOOKS

1. *Serving Children with Special Needs*. Drew Publication # (OCO)730163, 1972. U.S. Department of Health, Education, and Welfare, Washington, DC 20201.
2. *Readings in Preschool Education for the Handicapped*. Robert Piazza and Roz Rothman, 1979. Special Learning Corporation, Guilford, CN 06437.
3. Project Head Start Series, Mainstreaming Preschoolers: *Children with Emotional Disturbance*, DHEW Publication #(OHDS) 783115; *Children with orthopedic Handicaps*, (OHDS) 783114; *Children with Mental Retardation* (OHDS) 7831111; *Children with Health Impairments* (OHDS) 7831111. Head Start Preschool Series. Order from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 ($3.50 each).
4. *A Reader's Guide for parents of Children with Mental, Physical, or Emotional Disabilities*. DHEW Publication # (HSA) 795290. Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 ($3.00).
5. *Caring for Your Disabled Child*. Benjamin Spock, M.D., and Marion Lerrigo, Ph.D. Collier Books, New York, 1965.
6. *Handling the Young Cerebral Palsied Child*. (Available through United Cerebral Palsy.)
7. *The Exceptional Parent* (magazine). P.O. Box 101, Back Bay Annex, Boston, MA 02117.

Special thanks to Judy Calder, R.N., author of BANANAS' *Sick Child Care*, for her help with this chapter.

Custody Disputes: Who Can the Child Go Home With?

"Who can I let a child go home with?"

Legally a child can be taken from your day care home by the person who enrolled the child, by anyone that person has authorized you to let take the child, by the child's parent or legal guardian, or, in some circumstances, by a child welfare worker. On your enrollment form, ask the parent (or other person enrolling the child) to list those people s/he authorizes to take the child. If anyone other than those listed or the person who enrolled the child comes for the child, you should require written and dated permission from the enrolling parent and, if possible, verbal confirmation before you allow the child to leave.

Child care providers are legally responsible for the children left in their care and should release children only to certain people: (1) the person who enrolled the child, (2) anyone that person has given you written authorization to let take the child, (3) the child's parents or legal guardian, and (4) with proper authorization, child welfare workers. Normally the only people who will come for a child are people the parent has asked to. However, once in a while, someone who the parent does not want to take the child will come and ask to do so. It is this situation against which providers must protect themselves and children in their care.

You cannot completely protect yourself from having an unauthorized person ask or demand to take a child—and you cannot guarantee that you won't let such a person actually take the child from your home. But you can make and follow some simple rules which will give as much protection as possible and will make your role in these situations clear ahead of time.

- **What kinds of rules should I make about who the day care children can leave with?**

At the time a child is enrolled, you should explain to the parent that you can only let the child leave your care with the parent (or other person) who enrolled the child and with those people the parent lists on your enrollment form. You may decide that you will let children leave with other people too, since parents' unexpected delays may sometimes require it. If you want to allow this, tell parents that any people not named on the enrollment form must have a dated and signed note authorizing you to let the child leave with them. It is safest also to require that the parent confirm this arrangement with you by phone or in person.

- **What information do I need to have about the people I let children leave with?**

The essential thing you need is *authorization* from the person who enrolled the child in your home. It is also helpful to know the person's address, phone number, and relationship to the child. (See Form M.)

- **What should my enrollment form say about this?**

The form should state your rules clearly and ask for the name, address, phone number and relationship of each person authorized to take the child.

- **What else should I ask at the time of enrollment?**

Ask the enrolling parent if there is any custody problem. If there is no problem, you may want to ask the parent to alert you if one comes up later. Explain that because such things affect the child's needs and behavior, you need to be aware of them.

If there is a problem, ask the parent to write down the specifics of the problem. Ask the legal status of the marriage (married, separated, or divorced). Ask if a legal decision has been made on the child's custody. If so, ask who has custody (mother, father, or both in a "shared custody" arrangement). Ask if the parent anticipates that someone s/he doesn't want the child to leave with will come for the child. If so, ask for the names and relationship of these people.

- **What should I do if there is a custody problem?**

The first thing is to be aware that a problem exists. If it does, try to find out how serious it is. If it doesn't seem very serious, explain to the enrolling parent that you will try to respect her/his wishes, but that you cannot *guarantee* that you will be able to prevent the other person from taking the child. Explain to the enrolling parent that you will contact her/him immediately if an unauthorized or feared person comes for the child and that you will try to prevent him/her from taking the child.

If you think the custody dispute might cause a problem for you, you can ask that *both* parents meet with you. Explain to both that you are legally bound to respect the wishes of the enrolling parent. Then ask (or help) them to work out an agreement as to who the child can leave with and under what circumstances.

If the family's custody problem seems to be (or becomes) serious enough to either interfere with your care for the other children or upset you frequently, you may decide that you can't care for the child.

- **What should I expect if a day care child's parents are going through a divorce?**

You may be asked to take on some new roles. The child, and sometimes the parents, will demand more of you than usual. In deciding how to meet these demands, be sure to consider not only the divorcing family's needs, but yours as well.

The child will probably need more assurance and caring from you than before. Either or both of the parents may also need your reassurance. The child may vent some of the anger s/he feels about the divorce on you and the other children at your day care home. The parents may direct some of their anger at you, too.

While you and the extended family you provide can help both the child and the parents through this difficult time, you may have to put limits on what roles you will play for them. If things seem to be getting out of hand or if the family's demands seem more than you are willing or able to meet, don't hesitate to limit what you do for them.

- **What if the divorcing parents want to use my home as a "neutral territory"?**

You may be asked to act as a "go-between," your home becoming the neutral ground where the child is transferred from one parent's care to the other's. You may become a relayer of messages between parents. This may be easy for you and a great help to the family, or it may prove to be unreasonably difficult.

If the parents are having a difficult time resolving who will have custody or what visitation rights the other parent will have, you may become a focus of the conflict. You should set limits on what you will do and also be aware that this period, before the custody decision is made, is the time when you as a provider are most likely to have problems concerning whom the child can leave with.

- **Is there any source of help for providers in this situation?**

If you are helping a child and his/her family through a divorce and want to talk the situation over with a sympathetic listener, one may be available at the local I&R or through your association. In Northern Alameda County, you can call Betty Cohen (Social Worker and Parent) at BANANAS (658-6046). She will provide you with free and confidential consultations.

If you have questions about the family's legal situation or your legal responsibilities, call your local I&R, legal aid office or the Bay Area Child Care Law Project.

- **What if I can't tell who really has custody of the child?**

You may need to know this. The "custodial parent" is the legal parent and has the right to make decisions regarding the child, including who can and cannot take the child from your home. If you get different answers from each parent, you can be in a very difficult situation.

There are several ways of handling this. You can require a letter from the enrolling parent's lawyer which explains the status of the child's custody. You can insist on seeing the court order on custody, but it may not answer the question for two reasons—the order may be written in confusing language and/or there may be another, more recent, order specifying a different custody situation. You can tell the parents that you won't be able to care for their child until they can agree, in writing, on who has custody and to whom you are authorized to release the child.

- **What should I do if an unauthorized or feared person demands to take a child from my home?**

The best way to handle this situation is to *avoid* it. It places you in an impossible situation. How you handle it will depend a great deal on the specific situation—what you know about the family, the mood of the person making the demand, whether you are the only adult at your home, how the day care children react to the the confrontation. In any situation, you should explain that because you are legally bound to follow the enrolling parents instructions, you can't allow the child to leave unless you have the enrolling parent's written authorization. If the person insists, telephone the enrolling parent and tell her/him what is happening. If the enrolling parent tells you not to let the child leave with that person or if you cannot reach the enrolling parent and the other person demands to take the child, you can't do any more than resist the demand and stall, hoping that the enrolling parent will arrive.

- **What if the person threatens me or upsets the day care children?**

If the situation gets out of hand, you may have no choice but to let the child leave. Remember, your first responsibility is to *all* the day care children. Resist as long as you reasonably can, then if you have to, give in. If the child leaves with an unauthorized person, notify the enrolling parent immediately.

- **Will the police help me in this situation?**

They may. However, many police departments treat calls from providers in this situation as "domestic problems" and do not respond to them. However, if the person threatens you, you should certainly call the police.

- **What are my legal obligations in this situation?**

Your primary legal obligation is at all times to protect your day care children's safety and well being. Your obligation to enrolling parents is to contact them when an unauthorized person requests or demands that you release the child to him or her. If you can do so without risking your other day care children's safety and well-being, resist the demand to let a child leave with an unauthorized person.

- **When is a child welfare worker (or other government official) authorized to take a child from my home?**

This occurs when there is legal authorization either in the form of a court order or in the form of a "police hold." Both are quite unusual. If any government official asks you to let a child leave with him/her, insist on seeing the official's identification (with a photograph of the official) and a legal document authorizing him/her to take the child. Release the child only when you have seen both, and after releasing the child, notify the enrolling parent.

- **Where can families find help for custody problems?**

In Northern Alameda County, the following agencies can refer you to legal and counseling services:

Alameda County Lawyers Referral Service (893-8683) Free referrals
Alameda County Conciliation Service (874-6286) Free referrals
BANANAS Warm Line (658-6046) Free referrals
Family, Youth and Children's Center (644-6617) Sliding Fee Scale
Urban Indian Resource Center, for Native American families
    (832-2386) Free referrals

Unfortunately most legal and counseling services charge a fee.

Providers' Obligations Under Child Abuse and Neglect Laws

"What should I do
if I think a child in my care
is being hurt or neglected at home?"

If you suspect that a child is being hurt or neglected, your concern for the child and the family will probably make you want to help. Moreover, California law *requires* that licensed family day care providers (among others, including teachers and doctors) report to legal authorities when a child has actually been injured or seriously neglected. The law also protects you by stating that the person who files a report of child abuse or neglect cannot be sued for doing so unless s/he deliberately made the report knowing it to be untrue. But being sued is probably not what worries you. When providers suspect a child may be mistreated, they usually worry most about whether they are justified in reporting the situation to the authorities, and what will happen to the child, the family, and the provider if a report is made. This chapter answers many questions about child abuse and neglect. It also suggests places to go for help and sources of additional information.

Family day care providers often know children and their families more intimately than anyone else outside the family. When a family seems to be having serious problems, when a parent seems to be losing control, or when a child seems to be badly treated at home, the day care provider may be the first or the only one outside the immediate family to know.

There are many community agencies which can help families before their problems reach a crisis point. Because they know the families well, family day care providers are in a good position to suggest that families in stress ask for help early—before they lose control. (See this chapter for agencies that might be able to help.)

When you observe that a child in your care has unusual or repeated injuries, or when you observe that a child's condition indicates that s/he is not adequately provided for at home, it is your legal responsibility to report the situation.[1] The California Child Abuse Reporting Act requires that you report your suspicions within 36 hours to the appropriate legal authorities.[2] It protects people who report from being sued—and it allows people who don't report to be penalized or even sued if a child later suffers serious injury.[3]

Child abuse and neglect is an upsetting subject, especially when it concerns a child or family you know well. One of the most troublesome problems for providers who think that a child in their care may be a victim of abuse or neglect is deciding whether the child's condition is or could possibly be serious enough to actually be called abuse or neglect. The other very troublesome problem is not knowing what will happen to the child, the family, and the provider once a report has been made. Suggestions and resources for helping you with these problems are included in this chapter.

- **What should I do if I suspect child abuse?**

If you feel certain that a child is being abused or neglected, you *must* report it within 36 hours to legal authorities. If you aren't certain that the child has been abused or neglected, you can call one of the free community services which help providers who suspect that a child is being abused (see below), and/or take the child to be examined by a physician. Obtaining a medical exmination will be easier if you have the parent's written permission to obtain medical treatment in your files (see Form C-1 or C-2). The provider should either report at once or take advantage of these community services in order to *help the child* and *to protect herself*.

- **How can I tell whether injuries are from abuse or not?**

The Children's Trauma Center, at Children's Hospital in Oakland, advises people who work with children to ask for a consultation when some of the following are present: "When the child (1) has an unexplained injury; (2) shows signs of dehydration and/or malnutrition without obvious cause; (3) has been given inappropriate food, drink, and/or drugs; (4) shows signs of overall poor care; (5) is unusually watchful or fearful; (6) is unusually passive; (7) is seen by the parents as 'different' or' bad'; (8) is (in fact) different in physical and emotional makeup; (9) shows signs of sexual abuse; (10) shows signs of repeated skin injuries; and/or (11) shows signs of repeated broken bones."[4]

Any of these conditions is an indication of child abuse.

- **What should I do if a child comes to my home with injuries?**

Keep a written record of the injuries. Write down the date and time you observe the injury. Record the child's condition when s/he arrives at your home and when s/he leaves your home. Describe the injuries in as much detail as possible. If you observe a pattern of injuries which the parents can't explain, either call the legal authorities immediately or request a consultation from a physician or one of the agencies described below.

- **Where can I go for advice to protect myself and to help the child?**

If you need to talk to someone about the situation before you decide whether or not to report it, in northern Alameda County call one of the agencies listed below (or a similar agency in your community):

BANANAS: Child Care Information and Referral Service
Warm Line, for medical advice (Judy Calder, Registered Nurse) (658-6046)
Warm Line, for counseling (Betty Cohen, Social Worker) (658-6046)
Law Project, for legal advice (Lujuana Treadwell, Attorney) (658-7353)

Children's Trauma Center, for medical advice and information (428-3000)

Alameda County Legal Aid, for legal advice and information (451-9261)

Parental Stress Service, a 24-hour telephone service mainly for parents (see description below), (655-3535)

71

- **If I want to help a family that is having problems, what can I do?**

You are already doing a lot for the family by providing good care for the child or children. Your care relieves the parent(s) from constant responsibility for the child's care. Observing your way of handling children helps parents learn more effective ways of parenting. And, if you have time and are willing, you can help by providing a sympathetic ear to the parents. An understanding listener can often give parents who are having trouble handling their children or their own lives the boost they need to make it through a difficult time, such as a divorce, a move, a change of job, or the birth of a new baby. You can offer parents support, understanding, and sometimes advice at these times of stress.

You can also help by telling them about community service groups they can discuss their situation with. Most communities offer such services either free or at a low cost to families experiencing an unusually difficult and stressful time. For example, in Northern Alameda County the groups listed below provide services to families:

BANANAS Warm Line. Open 10-4 Monday through Thursday, 10-1 Friday. BANANAS has both a trained nurse and a pre-crisis counselor on its staff. Both are experienced mothers as well as professionally trained specialists. They are available for advice and support for parents and day care providers.
Parents should ask for Judy Calder or Betty Cohen (658-6046 or 658-7353)

Children's Trauma Center, Children's Hospital. Open 5 days a week and nights and weekends for "crisis on call," the Center is mainly for parents but also includes a program for children. Parents who have abused their children are referred here. Self referrals are also accepted from parents who have abused their children or feel that they might.
51st and Grove Streets, Oakland (428-3000)

Parental Stress Service: 24-hour service, 7 days a week. Call Parental Stress when you are having difficulties with your children, when you think a child is being abused or neglected, or when you want information about child and family counseling. Child care is provided in emergency situations.
Berkeley/Oakland Parental Stress 655-3535 (hotline) 655-8988 (business)
Union City/Hayward/Fremont Parental Stress
487-0622 (hotline) 487-0533 (business)

Parents Anonymous: Ongoing group for abusing or potentially abusing parents. East Bay group meets weekly. To contact, call 655-8988 (Parental Stress).

There are similar services in most communities. To find them, check with your local I&R office, your association, the licensing office, or look in the phone book.

- **What are my legal obligations as a provider?**

Licensed family day care providers, like teachers and doctors, are required by California law to report child abuse or neglect within 36 hours whenever they suspect it. California law protects providers and others who report suspected abuse from being sued by parents or anyone else if the report later turns out to be false. A person reporting child abuse can be sued only if the report was false and s/he "knew or should have known that the report was false" at the time s/he made it. In other words, if the provider sincerely believes or suspects that abuse occurred, s/he cannot be sued.

- **Precisely what does the law say about family day care providers and child abuse?**

It states the following: "In any case in which . . . a minor is observed by any . . . licensed day care worker . . . and it appears to the . . . licensed day care worker . . . from observation of the minor that the minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, or that the minor has been sexually molested, . . . he shall report such fact by telephone and in writing, within 36 hours, to (1) both the local police authority having jurisdiction and to the juvenile probation department; or (2) . . . to the county welfare department, or (3) to the county health department. The report shall state, if known, the name of the minor, his whereabouts and the character and extent of the injuries or molestation."[5]

- **If someone else reports that a child in my care has been abused, will anything happen to me for not reporting it myself?**

It is extremely unlikely that you will have to do any more than (1) answer questions and cooperate with a children's protective services worker, who may visit your home, and (2) discuss the situation with your licensing worker. If you are concerned about this, call one of the agencies listed in this chapter, your local Legal Aid Society or Bar Association,or your lawyer. In Alameda or San Francisco county, call the Bay Area Child Care Law Project, 495-5498.

However, providers should know that according to California law, a provider who fails to report is guilty of a misdemeanor and may be fined up a $500 or sentenced to six months in jail. Futhermore, if a person should have reported abuse and didn't *and* if the child later suffers serious injury, the child can sue that person for damages.[6] The child's lawyer would say that if the report had been made, the child would not have been hurt and that as a result the one who didn't report should have to pay for medical expenses and for pain and suffering. This is rare but it has happened, and it makes the purpose of the law clear—to force people who work with children take action to protect any child in danger.

- **What happens to me if someone else reports that one of the children in my care has been abused or neglected?**

Whenever a report of suspected abuse or neglect is made, an investigation must take place. Part of the investigation consists of interviews by the police or a children's Protective Service Worker of all people who know the child or the family well. As one of those people, you will be interviewed. If a hearing is held, you may be asked or required to appear at the hearing, as a witness.Generally, at both the interview and the hearing it is best to answer questions honestly and in as brief a manner as possible. Tell the facts as you know them and do not volunteer any opinions or unrequested information.

For more information about the investigation and hearing, read the next section. If you have additional questions, contact a lawyer.

- **What will happen to me if a child in my care is reported as abused?**

When parents learn that a report of abuse or neglect has been made, they usually become very frightened and upset. In this emotional state, parents may accuse others of the abuse in order to protect themselves from legal action including the possible loss of custody of the child—and from facing the fact that the parent or spouse is responsible for the injuries. Most social workers and police officers who handle child abuse cases are familiar with this reaction by parents.

As a day care provider who spends long periods of time with the child, you may be accused. Social workers and the police must carefully investigate each case to determine who is responsible. You will be questioned about the child and the family whether you have been accused or not, and so will the neighbors, family members, and the other parents who use your day care home. They may also be asked questions about you and your day care home. In most cases this is simply a routine part of the investigation. If it happens and you want advice, call one of the agencies listed in this chapter, or a lawyer.

- **Where do I report suspected child abuse or neglect?**

If you decide that abuse or neglect is probably occurring, the law requires that you report it within 36 hours. In Alameda County you should report to both the county probation department and to the police. If possible, give the child's name, his/her present whereabouts, and the kind and extent of the injuries.

The decision of where to report first depends on the situation. If you believe that the child is in serious or immediate danger and should not be sent home with the parents, report to the police department at once. If there doesn't seem to be any immediate danger, you will probably want to report first to the Children's Protective Services Office of the Probation Department.

The report must be made to the police and probation departments in the city where the child lives.

These are the places to report abuse in Alameda County:

Police Department Phone Numbers
(24 hours) Ask for the Juvenile Division

Oakland	273-3641	Emeryville	653-5455
Berkeley	644-6730	Hayward	881-7020
Alameda	522-1221	San Leandro	638-4100

Alameda County Sheriff's Dept. Headquarters 874-5242

County Probation Department (called the Children's Protective Services Dept.) Phone Numbers (8-5, Monday through Friday) Ask for the "Dependency" office.

North County 874-6771, 874-6267, 874-6471
South County 351-0424, ext. 431, 432, 433

To find the numbers in your community, look in the phone book under city police or county probation departments.

- **What will happen after the report is made?**

There will always be an investigation and there may be a hearing as well. Everyone who knows the child and/or the family well will be interviewed, including other family members, neighbors, and friends. You as the day care provider will probably be asked many questions during the investigation and may be required to appear as a witness at the hearing. For more detailed information about these procedures, read on.

- **What will happen to the child and the family after the report is made?**

This depends somewhat on the circumstances.

If the child doesn't seem to be in immediate danger, a social worker or police officer will visit the parents' home and explain that an abuse or neglect report has been made. During the time the investigation is going on, the child will remain with the parents. This is the way most reported cases are handled.

If the child seems to be in immediate danger, the police will place a 'Police Hold" on the child and refuse to allow the child to remain in the parents' custody. Under a "Police Hold," the child can be hospitalized against the parents' wishes or temporarily removed from the parents' care and placed in a foster home. When the child is removed from the parents' custody, a hearing must be held within 48 hours so that a judge can determine whether the child should be returned to the parents or placed in a foster home until the investigation is completed and another hearing has been held.

In each case one of several things may be the final result. The most common outcome is that the parents voluntarily enter therapy and the child remains in their custody during therapy. Many family therapy programs include a day care or nursery school program for the child. Ideally this offers both excellent care for the traumatized child and an opportunity for the parents to improve their parenting skills.

Another common outcome is that the parents are ordered by a judge to enter therapy and the child may or may not be allowed to remain in their custody during therapy.Other possible outcomes include the following: (1) The child is temporarily removed from parental custody and placed in a foster home. (2) The parents are found unfit by a court and the child enters the custody of a relative or becomes eligible for adoption. (3) The parent is prosecuted on criminal charges of child abuse or neglect. These latter possibilities are only likely to occur when the injuries are quite severe and/or the parents are unwilling to cooperate.

- **What happens during a typical child abuse investigation?**

After a report has been made, the police (usually a plainclothes officer) and/or the probation department (a social worker) will investigate the family situation. Police records will be checked for any prior reports of abuse in that family. The family members, other relatives, neighbors, close friends, and all caregivers and babysitters will be asked questions.

As the day care provider you will be interviewed by the police and/or the probation department when any child in your care is reported as possibly abused. This is a routine part of any child abuse investigation.

If you make a report of abuse, you should be contacted within a week. If you aren't contacted, make a second report.

If you have questions about the investigation, consult a lawyer.

Collecting Fees Owed—Small Claims Court

"What can I do if a parent takes a child out of my home without paying me?"

The best way to insure that you will be paid is to require payment in advance. The next best way is to be sure that parents understand exactly what you charge, to keep accurate records of the hours of care provided or contracted for, and to require that parents pay you on the agreed-upon dates. If a parent doesn't pay you within a reasonable period, especially if the child is no longer in your care, you may want to threaten or to actually file suit in Small Claims Court.

11

A parent owes you money. You have talked to her many times about what she owes you but haven't gotten paid. You suspect that she is thinking of moving her child to another child care program—or she has already moved her child.

A parent owes you money. He says he'll pay but keeps putting it off. You're pretty sure that he'll never pay, and you've lost patience with him. You feel that there's no way you can *persuade* him to pay you and you're ready to try to *force* him to.

The parents owe you money. They say they don't have the money to pay you, but you believe they do have it and are just choosing to put child care last on the list of what to use their money for.

If you're in a situation like one of these, and the amount owed is $50 or more, think about using Small Claims Court.*

Small Claims Court is designed for people, not lawyers. It is not very hard to use, and the Court workers will help you fill out the necessary forms and answer your questions about using Small Claims Court. Basically, all you have to do is:

1. Fill out a one-page form (Form N).
2. Notify the person you're suing that you've filed suit.
3. Appear in Court on the scheduled date and tell the Judge why the person owes you money.
4. Collect the money if you win the judgment.

Of course, it's not always quite that simple and some of the steps can get a bit tricky. But suing in Small Claims Court *is* something that anyone can do. And there are people and printed materials to help you.

Remember, too, that evening sessions are held at most Small Claims Courts, so you probably won't have to miss a day of work to have your day in court.

- **Do many providers require payment in advance?**

Yes. Many providers find that this saves them a great deal of trouble and that parents are willing and able to pay in advance.

* Because California law requires family day care homes to be licensed, providers who aren't licensed will probably not be allowed to use Small Claims Court to collect child care fees.

- **How can I protect myself if I don't require payment in advance?**

You increase your chances of being paid when you are very businesslike in arranging payment by making it clear to parents what fees you charge and precisely when you expect to be paid. (See Chapter 1, Provider-Parent Contracts.) You also lessen the risk of not being paid by requiring that parents pay on time.

- **What if a parent is having financial problems and asks to pay late?**

This is a difficult problem. If you can afford to wait, if you trust the parent, and if you want to do so, then agree to let the parent pay late. But require the parent to write a signed and dated note stating when s/he will pay. It is not a good idea to "carry" parents very long. It becomes harder for them to pay as the debt builds up—and you risk a greater loss.

- **What kinds of records do I need to keep in order to be paid?**

You need a record (1) of the amount the parent agreed to pay you and (2) of the number of hours of care provided or contracted for. Form O records the care provided and the amount owed for it. It can either be photocopied and used as is, or you can copy it onto both sides of a large index card and keep a file card for each child you care for.

- **What if a parent won't pay me but I haven't kept records?**

Obviously, the parent still owes you money. The legal obligation to pay is based on the parent's agreement to pay and on your rendering service. The problem is that if you have no record of the agreement or the services rendered, it may be more difficult to convince the judge in Small Claims Court that the money is owed to you. It is not impossible, however, so read on.

- **Why threaten to sue in Small Claims Court?**

Lawsuits, even in Small Claims Court, are unpleasant; most people try very hard to avoid them. You undoubtedly won't consider taking such drastic action unless you believe that the parent has no intention of paying you the money owed.

If the amount owed is significant and if you are convinced that neither persuasion nor patience is going to get you the money, you may be ready to threaten the parent with Small Claims Court. In most cases, the threat of a lawsuit in the form of a letter demanding payment by a certain date will be enough to get the parent to pay you if s/he possibly can.

In *every* case, the threat of being sued in Small Claims Court will make the parent angry at you. You should be ready for that—and if the child is still in your care, ready to part with the child. But if you've reached the point of thinking about suing, you've probably already given up the idea of getting along with that parent and are ready to deal with her/his anger.

- **Is Small Claims Court the solution to this problem?**

If you as a Day Care Provider are so frustrated at trying to collect from a parent that you're thinking of suing for the money owed you, stop and consider these things:

1. *Does the parent have the money to pay you (or are you pretty sure that s/he can get it)?* If the answer is no, suing won't help. If there's no money and no hope of the parent getting some fairly soon, then suing will be a waste of your time. You probably have no choice but to write off your loss.

2. *Do you know where the parent is now?* In order to sue someone, you have to "*serve*" that person. In other words, they must be notified of the suit either by someone giving them a copy of a Summons or by receiving and signing for a certified letter containing a Summons from the Court. If they cannot be located or if they have left California, you cannot *serve* them and so cannot sue them.

3. *Can you prove to the judge that the parent owes you the money?* If you can prove that you took care of the child and that you didn't tell the parent that you'd do it for free, then you can probably get at least some of the money owed to you. But the judge may decide to compromise and give you only part of the amount you're asking for.

If you can prove to the judge that you and the parent *agreed on a certain price* for the child care and that you did take care of the child, then you have a good chance of winning *and* of getting paid at the rate you and the parent agreed to.

Of course, the best way of proving the agreement as to price is to have it in writing, signed by the parent. Show this *written record* to the judge, prove that the care was provided, and you'll probably get the total amount you're asking for.

If the answers to these three questions are yes and if you are a licensed provider then it's worth the time and effort to begin the process of using Small Claims Court.

- **What should I do first?**

The first step is to write the parent a letter explaining that you want to be paid by a certain date and that if you are not paid, you intend to file suit. This is called a "Demand Letter." Send it to the parent and *keep a copy of it for your records.* Many Small Claims Courts require that you file a copy of this letter in court.

The Demand Letter lets the parent know the basis of your claim that s/he owes you money. It tells the parent that you're serious about the debt and that you intend to file suit.

The letter alone may be enough to get you your money. If it isn't and you have to go to Small Claims Court, then the Demand Letter will become your way of telling the judge your version of the facts.

It is a very important letter, but not one that has to be long or complicated.

- **What should the Demand Letter say?**

The Demand Letter should be typed if possible. You must keep a copy of it for your records. It should be short but *must* state *all the important facts* of your dealings with the parent regarding this debt.

The letter should include a list of:

1. the dates when you cared for the child
2. the total amount you charged for that care
3. any amount already paid for that care
4. the amount still owed to you for that care

The Letter should end with (1) a *demand* that payment in full (or satisfactory arrangements for payment) be made by a certain date, and (2) a statement that you will file suit in Small Claims Court if your demand is not met. (There is an example of a Demand Letter on Form P.)

- **What if the parent agrees to pay?**

It is safest to get the agreement in writing and the money in your hands before you formally agree not to sue.

- **What if the parent ignores the Demand Letter or still refuses to pay?**

If the parent doesn't answer the letter or gives an answer you're not happy with then it is time to either file suit or give up on ever getting paid. If you decide to file suit, here are the steps you must follow.

Step 1. Filing the suit. Go to the Small Claims Court Clerk's Office and fill out the filing form called "Plaintiff's Statement." (See Form N for sample.) The Clerk will then type an official form called the "Claim of Plaintiff." You sign that form, and you're officially a Plaintiff (the legal term for one who initiates a lawsuit).

Here are some things you'll need to know when filling out the Plaintiff's Statement:

You can file suit in the city where your day care home is located *or* in the city where the parent you're suing lives. For example, you can file in the Berkeley-Albany Small Claims Court, 2000 Center St., 2nd floor, if your Family Day Care Home is in Berkeley (or Albany) *or* if the parent you're suing lives in one of those cities. You can file suit in the Oakland Small Claims Court, 600 Washington St., 4th floor, if your Family Day Care Home is in Oakland (or Emeryville or Piedmont) *or* if the parent you're suing lives in one of those cities.

Most Small Claims Courts including those in Oakland and Berkeley require that you send a Demand Letter before filing suit and that in it you demand payment of a specific amount. Bring a copy of your Demand Letter with you to the clerk's office.

You can't sue for more than $750 in Berkeley and in most California cities. In Oakland and a few other cities, you can sue for up to $1500.

No one else can sue for you. You have to be the "owner of the claim," in other words, the one the money is owed to.

You'll be the one to tell your side of the story to the judge. No one else can do it for you unless you don't speak English; then you can have an interpreter.

You must give the full name and address of each person you're suing. If you're suing both the mother and father, you have to give each person's name and address separately, even if they are married and living together.

Step 2. Serving the Defendant. The person you're suing (called the "Defendant") must be notified of the lawsuit. If s/he isn't, there is no suit.

The notification is called "Service" and must happen at least five days before the day you'll appear in court if the parent lives in the county in which you're suing and 15 days before if s/he lives in another county.

You ("Plaintiff") cannot personally give the papers to the parent ("Defendant"), but there are several ways of getting them there. You can pay the Court Clerk $2.00 to send them by certified mail or you can ask a friend (one who won't be a witness in Court) to take them. The vital thing is to be certain that the right person receives them and that you have a document proving that the person received them. If s/he (parent and Defendant) doesn't receive them in person, then the *service* is not good and you'll have to do it over again.

Step 3. Your Day in Court. You must appear in Small Claims Court on the day scheduled and explain your side of the case to the judge. There are a few things to remember.

It's a good idea to attend a session of Small Claims Court a few days before your case is scheduled. That way you'll know what to expect and be more relaxed when you appear in your case.

Be on time or a little early. If your name is called and you're not there, the case may be decided against you for that reason alone. You probably won't get another chance.

Bring everything that you'll need to prove your case to the judge (including a copy of your license).

If you have a *written agreement* with the parent, you have the strongest case. Bring any of these things which you have: (1) the Written Contract or Agreement (Form A on Parent-Provider Contracts); (2) a record of Care Provided and Payment Received (see the example on Form O); (3) receipts for payments received or cancelled checks. These will show the judge that the parent was accustomed to paying for care.

If you had only an *oral agreement* with the parent, you'll have a harder time proving your case. Any of these things will help you prove it. Bring all of them if you can:

(1) A witness, someone who heard you explain your charges for care to the parent and who will support your case.

(2) A Record of Care Provided and Payment Received (see Form O for sample). This doesn't have to be formal. It can simply be a page from a tablet where you kept track of hours and payments.

(3) Receipts for payments received or cancelled checks. These will show the judge that the parent was accustomed to paying for care and will show the amount s/he usually paid you.

(4) A parent who used your day care home regularly and can tell the judge that parents pay you at such a rate for care.

Always bring a copy of your Demand Letter and any answer to it. It is very useful in showing the judge two things: (1) what happened and why you're owed money, and (2) that you've made a reasonable effort to get the parent to pay you.

- **When will I know who won?**

After you appear before the judge, the Court will mail you a Notice of Entry of Judgment. It will come in 30 days if the parent failed to appear in court and in 20 days if the parent did appear. This Notice will tell you who won. If you did, it will tell you how much the judge decided the parent owes you.

- **Can I appeal if I lose? Can the parent?**

You, the person bringing suit, have no right to appeal if you lose. The parent *does* have a right to appeal to the regular Municipal Court if s/he loses. An Appeal is unlikely, but it is a possibility. It will cost the parent $23 to file the Appeal and s/he must do it within 20 days after the Notice of Entry of Judgment is mailed to you both. If the parent appeals, you will need to contact a lawyer or read one of the many books available on using Small Claims Court. (See the list which follows.)

- **How do I collect my money?**

If you win, the job isn't over. The Small Claims Court won't collect for you. You should wait 20 days after receiving the Notice of Entry of Judgment and then phone or write the parent asking him/her to pay you. In most cases, the loser in a Small Claims Court case will pay the winner when asked to.

If you aren't successful in getting your money, there are several steps you can take to get it. For details on these steps and help, see the list below, or contact a lawyer. And don't give up hope. Judgments are good for ten years and chances are good that eventually you will get paid.

AIDS IN USING SMALL CLAIMS COURT

These are either free or inexpensive.

1. Albany-Berkeley Small Claims Court, Information Sheet and Court Clerks (workers), 2nd Floor, 2000 Center St., Berkeley, CA 94704, phone 644-6303.

2. Bay Area Childcare Law Project, phone consultations for providers filing and appearing in Small Claims Court in cases related to their day care business, phone (415) 495-5498.

3. California State Bar Association Pamphlet on Small Claims Court, available free by writing to State Bar, Pamphlets (B), Communications Division, 651 Brannan St., San Francisco, CA 94107.

4. *Everybody's Guide to Small Claims Court* by Ralph Warner, NOLO Press, Box 544, Occidental, CA 95465 ($5.95).

5. Oakland-Piedmont-Emeryville Small Claims Court Information Sheet and Court Clerks (workers), 4th floor, 600 Washington St., Oakland, CA 95612 phone 874-5082.

6. State of California Department of Consumer Affairs Leaflet, "The Consumer and the Small Claims Court," P.O. Box 310, Sacramento, CA 95802.

7. Your local Small Claims Court, listed in the telephone book under the county government courts section.

Business Planning and Bookkeeping for Your Family Day Care Home

"What kind of business planning and records do I need—and why?"

You don't need an elaborate bookkeeping system, but you do need to keep a simple set of books.

It is important to keep accurate records of the attendance, income and expenses of your Family Day Dare Home. While taking the time to mark a ledger each day or to file receipts for purchases may be hard to squeeze into your busy schedule, in the long run it is well worth your time.

12

Accurate records are important to you, to parents and to any assistant caregivers who work with you. Records will enable you to save money on your taxes, to collect more easily from parents and to evaluate your day care home as a source of income. Accurate records will show parents precisely what they owe and have (or haven't) paid you and will help you collect money owed. Now that parents can claim a tax credit for child care, they must have accurate records of what they have paid you. The IRS is becoming more interested in child care costs each year.

- **How do other providers set their fees?**

Some providers charge for the hours each child stays with them; others charge for the time *reserved* for each child, whether or not the child actually attends. Some providers charge all parents the same fee, others vary their fees according to the parent's income. Some require payment in advance, others after care has been given. Whatever fee policy you decide on, make sure each parent understands (1) how much s/he will be charged, and (2) when you expect to be paid.

Because parents and providers don't always make these things clear to each other, providers sometimes have trouble collecting the money owed them. **Chapter 1, Provider-Parent Contracts,** will help you prevent problems. **Chapter 11, Small Claims Court,** shows you how to handle serious problems with collecting by threatening to take—or actually taking—a parent to small claims court.

- **What should I think about in setting my fees?**

It is vital to your success as a day care home provider that you charge a high enough fee to pay yourself a living wage without overcrowding your day care home. If your fees are too low, you will either not make it financially or be forced to overcrowd your home and overextend yourself.

Remember that although many parents are on a very tight budget, buying good care for their children is probably second only to buying food and shelter in order of importance to them. So plan your budget based on the number of children you can reasonably care for. Include (1) the cost of food, toys, supplies and assistants, and (2) the amount you require as personal income. Then set your fees accordingly. And remember, the care, love and skills you devote to the day care children are very valuable in economic as well as human terms. As a family day care provider you are a vital community resource and deserve to be well paid. In setting your fees, consider:

(1) the amount parents can afford to pay,
(2) the "going rate" in your community, and
(3) last but not least, the fact that as a child care professional you are doing important work and should be paid accordingly.

Think about all three things and then set your fees. And don't hesitate to adjust them upward from time to time because of inflation.

- **Are some fee and payment methods better than others?**

Some are certainly simpler than others. What is "better" is for each provider herself to decide, but some providers who have been in this business for many years believe that it makes their lives easier to (1) charge all parents at the same rate, (2) base charges on time reserved rather than time the child is present, and (3) require payment in advance.

- **What kinds of business records do I need?**

This depends to some extent on your individual situation. In planning your own bookkeeping system, look for the simplest method which will give you a record of all the information you need to collect your fees and to get maximum tax savings. One book or ledger for income and one for expenses is probably best.

All providers need a record of these things:

1. *Attendance and Income.* Keep an accurate record of each child's attendance and of payments you receive for each child's care. Take time each day to make a *Record of Attendance* for that day. If it's necessary to your method of calculating fees (or because you care for children whose fees are paid by government subsidy), record the time each child arrives and leaves each day.

2. *Expenses.* You need to record expenses in order to know how much money you are making (or losing) in your business and in order to save as much as possible when you pay your taxes. **Chapter 13, Income Taxes**, gives examples of how to record expenses.

- **How do other providers record income and attendance?**

There are several possible methods for keeping attendance and income records. Select the simplest one(s) which are detailed enough to meet your particular needs. These are the most common income/attendance methods:

1. *A Daily Log* (of all children in care). This form is useful if (a) you care for

drop-in children, (b) you care for subsidized children, (c) you charge by the hour, or (d) you charge different fees to different parents. It may be more detailed than necessary if none of the above apply to your home (Form O).

2. *A Monthly Log* (of all children in care). This form is useful when you charge by the day rather than by the hour. It's useful whether you charge according to time reserved or to time actually used. (See sample Form R.)

3. *A Yearly Log* (for each child in care). A separate form is kept for each child. This form is useful as a record for your taxes and to copy and give parents for their tax records. (See Sample Form S.)

- **Should I make bills for the parents?**

Some providers do. They give parents an invoice or bill at the end of each pay period (week, month, etc.). Forms O and T can be used as invoices. Form O is both an invoice and a simple contract (agreement) between parent and provider as to what will be charged for care.

If you use the contract-invoice form, fill out the top portion and have the parent sign it when you agree to care for a child. Then record the care given and fees due on the bottom half. This form can be xeroxed and used as is, or copied onto both sides of a large (4 x 6) index card and kept in a file box.

- **Are there printed forms or ledgers that I can use instead of making my own?**

Yes. One set of bookkeeping materials designed especially for family day care homes is *The Calendar-Keeper*. It is a book which includes a monthly planning calendar, attendance forms, income and expense forms, an envelope for receipts, and more. The 1979 price was $3.85. It is available from Toys 'n Things, 906 N. Dale St., St. Paul, MN 55103.

Special thanks to Katy King of BANANAS for her help with this chapter.

Your Tax Obligations

"I want to save as much money as possible on my income taxes. What records do I need to keep during the year and how do I fill out my tax forms?"

You need to keep a record of your income and of the money you spend for your day care business. You also need to estimate the amount of time you use each part of your home for day care purposes. Filling out the tax forms is not complicated when you have the right records.

You can now deduct both your actual business expenses and the cost of using your home for your day care business from your federal income taxes. You will probably get back at least 30¢ of every dollar you claim as an expense of your business. But remember that the burden of proving these expenses is on you, the taxpayer, and not on the IRS. *You must itemize* your business expenses.

This means that you must list each expense you claim and, if you are audited, you will be required to show receipts for the purchases and other expenditures you have claimed. In order to avoid problems and save as much as possible on your taxes, keep a record of all day care expenses and keep all receipts. One simple way of doing this is to open a separate checking account for your day care business. Pay for all day care purchases from that account. It is best to save receipts as well as canceled checks.

You should also keep a record of each part of your home which is used for day care and of the average amount of time each part is used. When you know these things, you will be able to fill out the necessary forms. A guide for doing so appears in this chapter.

If you employ assistants or make more than $400 a year in profits, you have additional tax responsibilities which are also explained later in this chapter.

- **Do I have to pay taxes if my profits are low?**

Yes, if you make any profit (called "income" under tax laws), you must pay taxes. And if you don't make at least a small profit every few years, the IRS may decide that your family day care home is a hobby rather than a business.

- **What kinds of expenses can I deduct?**

If you are licensed, you can deduct *all* the costs of operating your day care home, including the cost of using the home itself.[1] It will be helpful to keep a separate book for recording expenses, or to keep *expenses* on a separate pages from *income* in your business records. It is very helpful to have a separate checking account for your day care business and to use it to pay for all day care purchases.

Remember to record *all* costs related to your day care home, including direct and indirect expenses. The lists below include many typical expenses, but you may have additional items of your own.

Direct Expenses (the total amount spent can be claimed)

Advertising
Art supplies and books for children
Dues for associations
Education and books (for you) related to day care business
Field trips and entertainment (who, where, cost and mileage)
Food
Gifts (who, why and cost) ($25 per person per year is maximum gift expense allowed by IRS)
Insurance
Maintenance or cleaning expenses for home
Office or business expenses (include supplies, legal fees, tax preparation and license or business permit fees)
Postage
Paper goods
Repairs of home, furniture and appliances
Substitutes or Assistants (see below)
Telephone
Toys, Indoor
Toys, Outdoor

Indirect Expenses (a percentage of the total amount spent can be claimed)

All mileage or transportation due to day care business

All expenses related to your home. These include rent, utilities, and home equipment bought for the use of both the day care children and your own family, such as the refrigerator, certain furniture, the lawnmower, etc.

- **What kinds of records do I need?**

You need an "itemized" list—a list of each expense—that includes the amount spent, the date, and the item (or service) purchased. You also need receipts for each purchase. Get into the habit of *keeping all receipts* in an envelope, shoe box, or other container, and *keeping a chronological record* of expenses. If you do not have proof of each expense, it can be disallowed by the IRS. If this happens, you will have to pay additional taxes to cover the disallowed deductions. You can either make your own ledger book, get one from your I&R or association, or buy one. Remember—a separate checking account used for all day care expenses is an ideal way to keep track of expenses.

It is best to set up your ledgers ahead of time with a separate category for each kind of expense. The ledger (Form U) shows the major categories for most day care homes. If you take time at the beginning of each year to set up these pages, they will serve to remind you of what to record each month.

- **What other information will I need to prepare my taxes?**

In addition to a record of expenses, you will need the things listed below when you (or a tax consultant) prepare your tax returns. It's a good idea to keep all of these things together in one place since you'll be using them year after year.

Records showing the total cost of your home

A property tax bill for the year you started your business

Records showing cost of furniture, appliances, carpeting, etc., and the value of each item when you started your business

Your Family Day Care License

The square footage of the home used for child care

The total square footage of your home

Your previous year's tax return

- **What if I need help with my tax forms or tax record keeping?**

Many day care associations and I&R groups offer workshops in February, March and April to help providers with their taxes. In addition, some have printed guides for providers. (See the Tax Guide prepared by BANANAS, Inc., later in this chapter.)

You may want to pay a tax consultant or accountant to prepare your tax returns. If you decide to hire a tax specialist, be sure s/he knows or is willing to learn about family day care tax law, which is unique and not widely known. Don't assume that just any tax professional can do a good job for you. Either get the name of one experienced in family day care taxes from your association or I&R group, or take this book with you and show the tax person this chapter the first time you meet.

- **How does the federal tax law treat family day care businesses?**

The federal tax law includes *special rules for individuals who use their personal residence on a regular basis in the trade or business of providing day care services to children,* the disabled, and the elderly. To qualify under these rules, your home must be licensed.[2]

This means that you can deduct all business expenses, like any other business, *and* you can deduct business-related expenses for taxable years beginning after 1975 without having to meet the "exclusive use test" applied to other home businesses.

Deductible home expenses are the gross income of the business minus the portion of property taxes, mortgage interest, etc., which are already deductible as a residence. The business activity expenses are determined on the basis of the *space* in your home used to provide the services.

- **How do I fill out my Tax Forms?**

Here is a step-by-step guide to preparing your federal tax forms prepared by BANANAS, Inc. Remember that the details of the tax law and the forms *sometimes change* from year to year. Therefore, you should treat these steps only as a general guide. The IRS instructions, a tax consultant, or a Tax Workshop will help you with each particular year's requirements. For up-to-date information and tax workshops, contact your association or I&R office. In Alameda County, call BANANAS (658-7353) or your association.

BANANAS TAX GUIDE

Step 1.

Get the proper forms: 1040 and Schedule C: Profit (or Loss) from Business or Profession, and Schedule SE: Computation of Social Security Self-Employment Tax.

Step 2.

Find out your gross income (as in 6); in this example it is $13,750.

Step 3.

Figure out the percentage of the house used for child care purposes; in this example, 1000 square feet is used out of 2000 (1/2) and 8 hours are used for child care out of 24 (1/3): 1/2 × 1/3 = 1/6 = 16-2/3%.

Step 4.

Figure out the expenses which are deductible on Schedule A whether or not you do child care.

Item	Cost	For Child Care	Rest to Schedule A
Property Taxes	$1500	1500 × 16⅔% = 250	1250
Mortgage Interest	3000	3000 × 16⅔% = 500	2500
TOTAL HOUSE EXPENSES			$750

Step 5.

Figure out your house expenses that are not normally deductible (if you rent, you would use your total rent for the year in place of the figure given for "Depreciation of house" in this sample).

Item	Cost	Portion for Child Care
General Fire & /or Liability Insurance (not insurance specifically written for child care; this is your house coverage)	$200	200 × 16⅔% = 33

Repairs and Maintenance (not specifically for child care but to the house, like interior painting, lightbulbs, minor repairs, minor remodeling)	500	500 × 16⅔% = 83
Gas & Electric	1200	1200 x 16⅔% = 200
Water	100	100 × 16⅔% = 17
Cable TV (TV used for child care)	120	120 × 16⅔% = 20
Garbage	80	80 × 16⅔% = 13
*Depreciation of house**	500	500 × 16⅔% = 84
*Depreciation of furniture, appliances, etc.**		

TOTAL OTHER HOUSE EXPENSES $450
(this figure must *not exceed* your gross income minus the total house expenses above: 13,750 − 750 = 13,000; if it does you can only take the amount left as these expenses.)

Step 6.

Income Statement

Gross Income

Fees from parent = $35/week × 5 kids × 50 weeks = $8,750

State Food Program	5,000
TOTAL GROSS INCOME	$13,750

Direct Expenses
(not house expenses)

Food	5,000
Toys & Games	1,000
Liability Insurance (especially for child care)	50
Repairs to toys	100
Office Supplies	50
Child Care Bank Account (service charges)	25
Travel	50
TOTAL	6,270

NET INCOME BEFORE EXPENSES	$13,750
MINUS EXPENSES	−6,270
	7,480
MINUS HOUSE EXPENSES	
A. Those deductible in any case	750
B. Other house expenses	450
	1,200
NET TAXABLE INCOME (reported on Schedules C & SE)	$6,280

**Depreciation* is the tax term for claiming a percentage of the cost of certain items. Your home and such items as furniture and major appliances which are *used part or all of the time for day care* (stove, refrigerator, washer and dryer, TV) can be depreciated. For information on how to figure depreciation, consult your local association, I&R, or a tax specialist or booklet.

- **When must I pay Self-Employment Social Security taxes?**

If the net profit that you make is more than $400 per year, your *profits* are subject to a Social Security self-employment tax. Call IRS Information Service (in Alameda County 839-1040) for forms and more information.

- **When am I required to pay estimated taxes each quarter?**

If you are a self-employed single person and at the end of the year will owe $100 or more in taxes (including the self-employment tax), you must file an Estimated Tax Return each quarter of the following year. Use Schedule 1040 ES.

If you are married and your spouse is working and having withholding taxes taken from his/her wages, you will not have to pay estimated taxes *if* your spouse is having enough taken from his/her pay to cover 80 percent of your total tax liability for the year.

- **What if parents ask for my Social Security Number for their tax forms?**

Tell them that they do not need it because you are self-employed and pay your own taxes. They can list you as their day care provider, but they are not required to pay taxes for you. If they are confused or need more information, tell them to read the instructions that accompany Form 2241: Child Care Credit (instructions for line 2, column B).

- **What are my tax obligations if I hire an assistant?**

If you regularly hire someone to help you care for the children or to care for them while you take time off, you are an employer and as such have certain legal responsibilities. BANANAS has prepared a comprehensive *Guide for Family Day Care Providers who are Employers.* It includes tax information, suggestions for finding and interviewing employees, and hints for avoiding or handling problems with employees.

The basic tax obligations are summarized here.

Federal Requirements. If you pay any amount of salary to an employee, you must:

1. get a Federal Employer Identification Number;
2. pay Social Security at the current rate (which must be matched by the employee); and
3. withhold Federal Income Taxes based on the employee's amount earned and her/his deductions.

For more information and the necessary forms, call your local *IRS Information Service* (for Alameda County, 839-1040, 12th and Broadway in the Clorox Bldg., 4th Floor, in Oakland). That office will send you the *Employer's Tax Guide* and all necessary forms. Most also give workshops on small business practices.

State Requirements. The State of California requires these things of day care providers who hire an on-going assistant or who pay the *same* substitute more than $50.00 in any calendar quarter:

1. get a State or Federal Employer Identification Number.
2. withhold State Income Taxes based on the employee's amount earned and her/his deductions.
3. withhold 1% of the employee's salary for State Disability Insurance.
4. if you pay an employee over $100 in a quarter, you must pay into the Unemployment Insurance program at a rate of approximately 3.6%.
5. you must pay into the Workers Compensation Insurance program at a rate of approximately 98¢ per $100 of wages paid. For more information and a free booklet, contact the Worker's Compensation Office (in Alameda County 465-1500, 55 Santa Clara Ave., Oakland).
6. Under the current California family day care regulations (effective November 26, 1978), all regular assistant caregivers must be fingerprinted and receive a criminal clearance from the licensing department.

For more information and forms on a State Employer Identification number, withholding State Income Taxes, State Disability Insurance or Unemployment Insurance, contact the State Dept. of Benefit Payments (in Alameda County, 464-0606, 1111 Jackson St., Room 2043, Oakland).

- **Is there any way to avoid all these requirements and still have a regular assistant?**

Some providers, with the help of a tax consultant or accountant, avoid these responsibilities by characterizing their assitants as "independent contractors" rather than as employees. But this is risky, both because it is a complex process and because the law on it is very complex. You should not attempt to do it without advice from an accountant or lawyer.

- **What information do parents need from me in order to get their child care tax credit?**

The only information parents need from you is the following:

1. The name of each child in their family that you cared for during the tax year;
2. the dates of care provided to each child in the family;
3. the total child care fees you charged for each child in the family during the tax year;
4. the total amount *actually paid* to you for the care of each child in the family during the tax year. (Don't count money still owed to you for that year.)

You *do not need to and should not* give your Social Security Number to parents because they do not need it to complete their tax forms. (Parents only need the Social Security Numbers of providers who worked *in the parent's home.)* Refer parents with questions about this to the IRS Child Care Tax Credit Form 2441 Instructions or to the IRS Office.

- **Is there anything I can do to help parents get their child care tax credit?**

It will be very helpful to parents if you prepare a form for every family whose child or children you cared for at any time during the year, including children who are no longer in your care.

BANANAS has prepared a form for this purpose. It is included as sample Form T, with instructions on how to use it.

If you cared for a child whose care was paid for by divorced or separated parents who share custody of the child, you should prepare two forms—one for each parent—showing *only* the amount that individual paid. Just one parent will be eligible for the tax credit, but both should receive a statement from you. Which parent is eligible for the credit is a question parents should take to a tax specialist, a lawyer, or the IRS.

Special thanks to Nancy Ott, tax specialist, and Jo-Ellen Spencer-Perry of BANANAS for their help with this chapter.

14

Government Subsidies for Children in Family Day Care

"Parents often ask me if
there is any government money
available to pay for children
in family day care. Is there?"

Yes, there are a *limited* number of government subsidy programs that will pay part or all of the fees for a low-income child to attend a licensed family day care home. In all of these programs, the parent's income level determines the child's eligibility for the subsidy. In most of them, the parent, not the provider,must be responsible for getting into the subsidy program. But if you want to get involved, you can help by telling parents about these programs and by encouraging them throughout the process.

In the past, most government money for child care has gone to centers. Recently, a government trend toward supporting family day care homes seems to have begun. At present, there are basically two kinds of government funding for children in family day care homes: subsidies that pay for part of the cost of a child's day care, and subsidies that pay the total cost.

Unfortunately, the number of government subsidy programs and the amount of funds available for children in family day care are limited. In addition, many of these subsidy programs aren't well known and some involve a frustrating amount of red tape for both the parent and the provider. But they do offer help to low-income families who want their children to be in day care homes; and for many families they are the only means of obtaining day care.

Because family day care is a very "cost effective"—or relatively inexpensive—form of child care from the government's point of view, the trend toward family day care may eventually increase the amount of money available and decrease the amount of red tape required. As a provider, you can help this happen by telling parents and other providers about the subsidies avialable, by insisting on being treated fairly by the government when it pays all or part of the fees for a child in your home, and by advocating for more subsidies through your legislators and associations.

- **What must a provider do to get into one of these programs?**

You must be licensed to qualify to care for children in subsidized programs. You must also be willing to do the paperwork required by the agency that administers the program. For the Title XX and WIN federal programs, providers who care for a certain number of subsidized children must also meet federal regulations, called the Federal Interagency Day Care Requirements (or FIDCR).[1]

- **How do complete funding subsidies work?**

These subsidies, which pay the total cost of a child's day care, are paid by either the federal or state government. But usually it is the county welfare office or another local agency that certifies that the parent is eligible for the subsidy and also sets the price that will be paid to the provider for care. The major complete funding subsidy programs are California's Vendor-Voucher Plans, the federal Work Incentive (WIN) program and County Title XX plans.

The programs have varying policies on such important questions as these:

1. who sets the price to be paid for care — the provider or the government;
2. what payment is based on — the hours the child is in care or the hours the provider has reserved for the child's care;
3. whether the parent's attendance at certain training programs is required in order for payment to be made.

- **What precautions should providers take when agreeing to take subsidized children?**

Providers should take the same precautions that they do in agreeing to care for other children: Make very clear what *terms* you agree to and get a written *contract* whenever possible.

Don't be intimidated by the government worker who makes the arrangements with you and be sure that you know and are willing to accept:

1. the rate of payment;
2. the basis of payment (actual care hours or hours reserved);
3. any conditions on payment (parent's responsibilities regarding what s/he does while the child is in care; deadlines for your returning forms, etc.);
4. the timing of payment (how often, whether delays are common, and whether payment occurs before or after care is provided);
5. any requirements the provider must meet (such as FIDCR); and anything else you normally discuss with someone who "buys" your service of child care.

Agree to provide the care only if you feel you can live with these terms. Then either (1) get the worker to sign a formal or informal contract with you specifying the terms, or (2) protect yourself by making a signed and dated note of the terms you and the worker have agreed to. Always keep a copy of this note for yourself and to be extra safe, send copies to both the parent and the worker.

- **What can I do if I am caring for a subsidized child and have problems with the government?**

Though these programs usually run smoothly now, the most common problems are in payment — either because payments are made late or because there is a disagreement over the amount due. There are several things you can do if such problems arise. The main thing is to be persistent in demanding timely and fair payment. If the worker you are dealing with will not give you satisfaction, demand to talk to the worker's supervisor. If that doesn't get you payment, go up the next level within the agency or to the government level above the agency.

You can get help from your local family day care association or I&R group, too. They can phone and write in support of your claim. One provider alone can push her claim all the way to the top, but this takes time and effort. If that provider has the backing of organized child care groups, she will probably get her money more quickly.

- **How do parents enroll in the total subsidy programs?**

They begin by contacting the appropriate agency—the Vendor Voucher Sponsor or the County Social Services (or Welfare) office. Parents can get complete information on all available government programs at the local information and referral service. The local licensing office may also be able to give them information.

There are several different total subsidy programs. For example, in northern Alameda County, the following are available:

The Alameda County Department of Social Services Title XX Program (Information, 639-4656).

The WIN Program (Information, 464-0484), limited to AFDC parents who are in WIN training programs.

The BANANAS Parental Choice Vendor Program (Information, 6501 Telegraph, Oakland: 658-6177) limited to Oakland parents of infants in full-time care.

The Oakland Vendor Program (Information, 6118 Shattuck, Oakland: 658-2449).

The Berkeley-Albany Licensed Day Care Operators Vendor Program (Information, 548-7045).

The South Berkeley Vendor Program (Information, 644-6080).

Each total subsidy program has its own enrollment procedure and requirements, but the basic steps are these:

1. Parents must meet certain eligibility requirements based on their family's size and income.
2. If they qualify as eligible, they must then find a child care program that enrolls "subsidized children" and has an opening for their child.

- **What should parents do if they have trouble with these programs?**

Providers can help by encouraging parents through the process of enrollment and by reminding parents that welfare recipients have certain rights, including the right to talk to the eligibility worker's unit supervisor, to the social service worker, and finally to present their case at a fair hearing.

Parents experiencing difficulty can contact the local welfare rights or legal aid office.

- **How do the partial funding subsidies work?**

These programs pay for part of the cost of day care. The two partial subsidies are the Federal Food Program (paid for by the U.S. Department of Agriculture through the California Department of Education) and the "income disregard" program (paid for through the California Department of Social Services). The Food Program helps pay for the food your day care children eat. Income disregard is a payment to a working welfare parent which s/he, in turn, uses to pay for the child care that you provide.

- **How do I get enrolled in the Food Program?**

You must be licensed and must find a local food program sponsor, called the "umbrella organization." Basically, this program pays for part or all of the day care children's meals and snacks (both the cost of the food and the time you spend preparing it). To receive this money, the provider must (1) have all of the families whose children attend the home fill out a form stating the number of people in the family and the total family income; (2) follow certain nutritional guidelines in selecting meals and snacks; (3) submit a complete day care menu to the program sponsor; and (4) submit a record of the meals and snacks served, and of the time spent preparing them, to the sponsor. While the paperwork required can be troublesome, many sponsors have worked out a simple-to-use system. In addition, advocates are now at work to make the entire Federal Day Care Food Program work more effectively. For more information, contact:

1. California's toll-free food information service (800-952-5609). (This service provides information and can tell providers who their local "umbrella" or sponsoring agencies are.)

2. The Food Law Center
   California Rural Legal Assistance
   115 Sansome St.
   San Francisco, CA 94109
   (415) 421-3405

3. Food and Nutrition Services
   Child Care Food Program
   105 Harvest West Blvd.
   Santa Cruz, CA 95060
   (408) 427-3171; 688-8840

- **What is a sponsor or "umbrella" organization?**

The program must be sponsored by an umbrella organization which administers the food program for local day care programs (both homes and centers). The umbrella organization is usually a family day care association, an I&R group, a food or nutrition organization, or child care support group. The Northern Alameda County Sponsors are:

1. California Food Policy Project (863-7480)
2. Alameda County Child Care Coordinating Council (582-2189)
3. Berkeley Children's Services (549-3820)

Call 800-952-5609 (toll free) for the name of your local California sponsor.

- **How do parents enroll in the "income disregard" program?**

Many times a welfare mother doesn't realize she can *stay* on welfare *when she is working*. But she can, and, in order for her to make a go of it, she should stay on AFDC until she's earning enough to pay for all the expenses that used to be paid for entirely by the State (health care, food, etc.).

A parent who is working *and* is on welfare (AFDC) is allowed to be compensated for the extra expenses she has when she works, including child care. The welfare department essentially adds these expenses to her overall grant to encourage her to keep working. Her eligibility worker should automatically figure in these expenses when determining her grant. But sometimes, this is forgotten. Providers can help working welfare parents by reminding them of their right to use income disregard in the calculation of their welfare grants. If the eligibility worker doesn't give a parent what she considers a fair amount through income disregard, the parent has the right to ask to talk to the unit supervisor, then to the social service worker, and finally to present her case at a fair hearing. The monetary benefit from income disregard will not come to the provider directly. But if a parent gets more support to her income, it is more likely that she will be able to pay the provider on time. This money can also minimize some of the problems when a parent moves from welfare to a job.

Special thanks to Arlyce Currie of BANANAS for her help with this chapter.

Obtaining Loans for Your Family Day Care Business

"Can I get money to remodel my home for my day care business?"

You may be able to get a loan or other funds to make necessary changes in your home for day care. There are almost no special credit sources for family day care at present, so the availability of money will probably depend on your personal credit history just as it would for any other credit application.

Credit for remodeling or making minor changes in your home is available from many sources, incuding banks, finance companies, credit unions, savings and loan associations, and credit card companies. The availability of credit to you depends on your personal credit history and your present financial situation. This chapter describes the various sources of credit. It also tells you how to estimate your chances of getting credit, how to present your loan request as effectively as possible, and how to improve a poor credit history.

- **Where can I go for credit to remodel my home for my day care business?**

Different kinds of businesses offer credit for remodeling homes. Here is a brief description of some of them.

Credit Unions. These are cooperative associations of people who have something in common—for instance, they all work for the same company or belong to the same union or church. Credit Unions offer much the same sort of credit "products" as commercial banks—installment loans, savings accounts, etc.—but the products are offered *only* to the members of the Credit Union, not to the general public. The advantage of obtaining a loan from a Credit Union is that their rates are often lower than those at commercial banks and finance companies.

Finance Companies. (Industrial Loan Companies and Personal Property Brokers). These companies offer small consumer loans at higher interest rates than those offered by banks or credit unions. The smaller the loan offered, the higher the interest rate. The credit standards of these businesses are often less strict than those of banks and credit unions: it may be easier to get a loan, but the trade-off is the higher interest rate.

Insurance Companies. You can often borrow from your insurance company against the cash value of your "whole" or "straight" life policy. You will be charged the amount you borrow, plus interest, which is quite low compared to other loan sources. Remember: until you repay the loan, you reduce the money your beneficiary will receive upon your death.

Commercial Banks. Commercial banks offer installment loans, home improvement loans, home equity loans, as well as revolving credit lines, credit cards, and savings passbook loans. It is best to go first to a bank where you already have a checking and/or savings account to get a loan.

Savings & Loan Association. Savings associations were formed primarily to help people obtain financing for housing. Therefore, they are a good source for money to remodel a home. They offer mortgages, home equity loans, home improvement loans, and savings passbook loans.

- **What kinds of loans are available?**

Secured and Unsecured Loans. A loan is "secured" if the loan agreement asks you to pledge property to the creditor (the institution that lends you the money). The creditor then has rights in the property, and is able to sell the property to pay off your debt if you don't repay the loan. Cars, insurance policies, real estate or savings deposits are the kinds of property people usually pledge. If a loan is made without a pledge of property, it is called an "unsecured" loan.

A lender is more apt to give an unsecured loan to a person who is likely to pay the loan back. If the loan is for a large amount or the lender is somewhat worried about your ability to pay, it will be more likely to require that you secure the loan.

Installment Loan. An installment loan is a loan of a specific amount of money which must be paid back in regular installments.

Credit Card. When issued by banks, credit cards (Mastercharge, VISA, etc.) can be used to buy a wide variety of goods and services from different stores. (Credit cards offered by oil companies and retail stores can only be used to purchase the products of the oil company or retail stores.) Some bank credit cards have additional features enabling you to get a cash advance. Depending upon the size of your line of credit, the cash advance can be quite large and can be used for minor remodeling. However, on credit card loans the interest rate is quite high; you pay more for the money than for other kinds of loans.

Cash Advance. A Cash Advance may be used with a checking account as well as a credit card. This type of checking account allows you to write a check for more than you have deposited in your checking account. The excess is really a loan to you at a high rate of interest.

Home Improvement Loans. These loans are used to finance repairs, alterations, and improvements to family homes. The loan amount available varies with the purpose and the general economic conditions of the country at the time of application. The maximum repayment period in home improvement loans varies according to the size of the loan. These loans are generally for two to six years.

Lenders have different standards for granting home improvement loans. Some lenders require the borrower to have a certain amount of "equity" in the home; this means that the home must be worth more than you owe on it when you apply for the loan. Home Improvement Loans over a certain amount are often available through a "second deed of trust"; this means that the borrower pledges the house itself as security of the loan. If the loan isn't repaid, the lender can, under certain conditions, force the sale of the house in order to get its money.

Home Equity Loans. Sometimes a lender will allow you to use the equity in your home as security for a loan. The loan itself may be used for a wide variety of purposes, including improvements to the home. The amount you can borrow depends upon your ability to repay the loan, your equity in the property, the lender's appraisal of the property value, and your creditworthiness. Usually the lender then lends up to a certain percent of the appraised value, minus the amount owed on the first mortgage.

You can generally borrow more money with a Home Equity loan than with a home improvement loan. Sometimes Home Equity loans cannot be made if the property was originally financed through special government programs. You should always ask the lender about this if you have gotten a first mortgage through a special government program.

- **What are my chances of getting a loan?**

In the past, obtaining home improvement loans was almost impossible for women. Today, however, women are protected from discrimination in the granting of credit by many state and federal laws.

Your chances of getting a home improvement loan depend on your income, savings and other assets, and on how you have managed your other debts. If you have other loans, a "credit reporting agency" probably has a record of how well you have handled the payments as well as other information (such as any court judgments against you or bankruptcy). This is called a "credit report," "credit file," or "credit history." When you apply for a loan, the lender reviews this report, and determines, according to its own standards, if the loan is a good risk.

- **How can I see my credit record?**

You have a right, under federal and state law, to examine your credit files. You will be charged a small fee unless you are challenging a specific denial of credit. To get a copy of your credit file, ask the lender for the name and address of the credit reporting agency it uses and call for an appointment. The credit reporting agency must provide a trained person to explain the report to you.

- **What can I do if I have a "bad" credit record? Can I correct the record if it is wrong?**

You should review your credit record to see if it is "bad" because of problems you may have had in the past, or if there is incorrect information on the record. If there is incorrect information on the record, you can get it removed. The best way to do this is to write to *both* the original creditor and the credit reporting agency. You should explain the mistake. If you have any proof of your side of the story (copies of canceled checks, paid bills, or letters), include copies of these along with your letter. Ask the creditor to remove the information from the credit report.

If your bad credit record is based upon late or nonpayment problems due to the fact that in the past you paid bills late or not at all, you will probably have to develop a new and better credit record. This may take some time. First think about why you were delinquent in paying bills or never paid your bills at all. If conditions have changed so that you now are a better credit risk with a more regular payment pattern, gather information that shows that you are now able to pay, such as proof of your or your spouse's income and records showing any loans you have paid back promptly. Give this information and copies of any records or documents to creditors when you apply for loans. Another tactic is to accumulate a savings account and then ask the bank or savings and loan association for a small loan, giving your savings account as security.

Be sure to make prompt payments on any new loans, so the payments will be recorded on your credit report. As you can see, it may take six months to several years to clear up a bad credit record. You must develop proof that you have now overcome the problems that led you not to pay those bills. You must convince the lender that you will repay any money it lends you.

Your librarian can help you locate useful materials on improving your credit rating; particularly noteworthy are the California Bar Association pamphlets on credit.

- **What will I need when I apply for credit?**

Most applications ask for the same sort of information, although the forms may be arranged differently. First, of course, the lender will want to know your name, address, and place of employment; what kind of work you do; and your income. It will also want to know how long you have lived in your home and been on your job. The lender will ask you to list the checking and/or savings accounts you have. It will ask you to list all your current debts (for instance, house loan, car loan, credit cards).

Do not try to hide the fact that you owe certain obligations. If you leave out some of your debts, the lender is likely to discover them when it reviews your credit report. Then you will have given it a reason to deny your application based upon your providing false information.

If you are in business for yourself and do not have a regular salary, lenders usually ask that you submit proof of your income. Self-employed people are frequently asked to give a copy of their income tax reports. If you have a small income or a bad credit history, you might also be asked to find a "guarantor" for your loan. A guarantor is another person, with a good credit history and the ability to pay back a loan, who agrees formally to pay back the loan in case you do not.

- **How can I best present myself and my business to the loan officer?**

The best way to present yourself and your business to a loan officer is to be well organized, to the point, and willing to both ask and answer questions. You should have all the data needed to fill out the application at hand. You should have at least a rough financial analysis of the income and expenses of your day care home. Copies of your books showing enrollment and fee payment can be presented to the loan officer (see Chapter 12). You should be prepared to answer the questions of the loan officer. These will be designed to verify the information you are presenting. The loan officer might ask you questions to determine how serious you are about your business, or to determine if s/he can help you find other credit alternatives.

Before going in to apply for the loan, you should get an estimate (better yet, two or three estimates) of how much the work will cost. Ask the contractor(s) for written estimates and bring copies with you when you apply for the loan. The loan officer will also want to know whether you have gotten the best estimate for the work, whether the contractor is licensed, and why the changes are needed. If changes must be made in order to increase your licensed capacity for children, explain this. In other words, you should be prepared to discuss your business and your application in great detail.

You should realize that lenders are selling products. Each lender offers a slightly different version. You should therefore shop around, find out what different kinds of loans and services are available from different lenders, and the different interest rates. You may want to indicate to the loan officer the fact that you *are* shopping around to get the best possible deal. It may make the loan officer realize that you are a business person and seriously interested in getting money to run your business.

Don't worry about whether the loan officer likes you or not. All you should be concerned about is demonstrating: (1) that you are a competent business person, (2) that you are able to run a profit-making business, and (3) that if you get a loan you will be able to repay it.

Special thanks to Jane Moore, Attorney at Law, for her help with this chapter.

Reference Notes
Bibliography
Sample Forms

FOOTNOTES

In California, Family Day Care Homes are governed by Sections 1500 *et seq,* Health and Safety Code and by Sections 86001 to 86039, Title 22, Administrative Code. Providers administrative rights as licensees are governed by Sections 11500 to 11528, Government Code. Other local, state and federal laws are also applicable, as indicated below.

Chapter 2

1. Section 1237, *et seq,* Cal. Civil Code.
2. Section 1302, Cal. Civil Code.

Chapter 3

1. Section 86013(a), Title 22, Cal. Admin. Code.
2. Section 86013 (b), Title 22, Cal. Admin. Code.
3. Sections 86033(e) and 86017, Title 22, Cal. Admin. Code.
4. Section 86029, Title 22, Cal. Admin. Code.
5. Section 1528.5, Cal. Health & Safety Code.
6. Section 1528(d), Cal. Health & Safety Code.
7. Sections 86001 to 86039, Title 22, Cal. Admin. Code.
8. Section 86029, Title 22, Cal. Admin Code.
9. Ibid.
10. Section 86033(d), Title 22, Cal. Admin. Code.
11. Section 86023, Title 22, Cal. Admin. Code.

Chapter 4

1. Section 1523, Cal. Health & Safety Code, and Section 86031, Title 22, Cal. Admin. Code.
2. See generally Title 19 and Title 24, Cal. Admin. Code.
3. *Uniform Building Code,* Whittier, CA: Intl. Conf. of Bldg. Officials, 1976.
4. See generally Title 19 and Title 24, Cal. Admin. Code.
5. Uniform Bldg. Code, Section 106. See also Title 19 and Title 24, Cal. Admin. Code.
6. Section 1529.5, Cal. Health & Safety Code.

Chapter 5

1. Sections 1534 and 1538, Cal. Health & Safety Code.
2. Section 1527, Cal. Health & Safety Code.
3. Section 1538, Cal. Health & Safety Code.
4. Section 86025, Title 22, Cal. Admin. Code.
5. Section 1534, Cal. Health & Safety Code.
6. Section 1551, Cal. Health & Safety Code; Sections 86015 and 86017, Title 22, Cal. Admin. Code; and Sections 11504 and 11504.5, Cal. Govt. Code.
7. Section 96027(a), Title 22, Cal. Admin. Code.

8. Section 1551, Cal. Health & Safety Code; Section 86027(b) and (c), Title 22, Cal. Admin. Code; and Sections 11503, 11505 & 11506, Cal. Govt. Code.
9. Section 86003, Title 22, Cal. Admin. Code and Section 11504, Cal. Govt. Code.
10. Section 1550, Cal. Health & Safety Code and Section 86027(b), Title 22, Cal. Admin. Code.
11. Sections 11500 to 11528, Cal. Govt. Code.
12. Sections 1540 and 1541, Cal. Health & Safety Code.
13. Section 1540, Cal Health & Safety Code.
14. See Cal. Business and Professions Code, Sections 17200 *et seq.* For more information on these suits, contact the Bay Area Child Care Law Project, 9 First St., Suite 803, San Francisco, CA 94105.

Chapter 10

1. Section 11161.5 Cal. Penal Code.
2. Ibid.
3. Ibid.
4. "Guidelines for Identification of Child Abuse and Neglect," Oakland Children's Hospital Trauma Center. Pamphlet.
5. Section 11161.5, Cal. Penal Code.
6. Section 11162, Cal. Penal Code and *Landeros v. Flood,* 19C. 3rd 1976. (A doctor and hospital were found liable for malpractice for not reporting a case of suspected abuse.)

Chapter 13

1. Section 280A(c) (4), U.S. Internal Revenue Code.
2. Ibid.

Chapter 14

1. Federal Day Care Regulations, Federal Register, Vol. 45, No. 55 (3-19-80).

BIBLIOGRAPHY

Collins, Alice and Watson, Eunice. *Family Day Care,* Boston: Beacon Press, 1976.

Granger, Richard. *Your Child from One to Six.* Available from the Government Printing Office; request "DHEW Pub. No. (OHDS) 77-30026."

McLaughlin, Clara. *The Black Parents' Handbook,* New York: Harcourt, Brace, Jovanovich, 1976.

Huntington, Dorothy; Provence, Sally; and Parker, Ronald, editors. *Serving Infants.* Available from the Government Printing Office; request "DHEW Pub. No. (OHDS) 78-31056."

Marzollo, Jean and Lloyd, Janice. *Learning Through Play,* New York: Harper and Row, 1972.

Roby, Pamela, editor. *Child Care—Who Cares,* New York: Basic Books, 1973.

Sale, June, *Open the Door—See the People,* Pasadena, CA: Pacific Oaks College, 1972.

Seefeldt, Carol and Dittmann, Laura. *Family Day Care.* Available from the Government Printing Office; request "DHEW Pub. No. (OHD) 73-1054."

Squibb, Betsy. *Family Day Care, Resources for Providers,* 1976 (order from Training Materials for Family Day Care Providers, Shaker Rd., Harvard, MA 01451).

Torres, Yolanda. *I'm Not Just a Babysitter,* Pasadena, CA: Pacific Oaks College, 1971.

Note: This Bibliography is designed to be useful to providers. It does not attempt to include all of the publications on family day care and child development. If readers have other favorite publications they wish to recommend, please contact BANANAS or the author. Special thanks to June Sale and Betty Cohen for their help in compiling this Bibliography.

These Sample Forms were developed with the help of family day care providers and associations, resource and referral agencies, and attorneys. They are written to be legally effective and easy to understnd. They are designed so that they can be copied and used by providers in their businesses. The Forms are copyrighted, and we require that anyone reproducing them include the copyright statement on all copies.

The uses of each Form are explained in the *Handbook* in the chapter or chapters referred to on the Form. In using the Forms and the *Handbook* itself, remember that no book or form can solve or prevent all problems. The solution to a legal problem or question usually depends on specific laws, regulations, or circumstances. Therefore, while forms like these can be very helpful, they cannot replace the advice of an attorney.

LIST OF FORMS

FORM A: Provider-Parent Contract
FORM B: Enrollment Information Questionnaire
FORM C-1: Medical Treatment Authorization (Short Form)
FORM C-2: Medical Treatment Authorization (Long Form)
FORM D: Liability Agreement
FORM E: Field Trip Permission
FORM F: Field Trip Permission and Liability Agreement:
FORM G: Special Field Trip Permission
FORM H-1: Landlord Agreement (Short Form)
FORM H-2: Landlord Agreement (Long Form with Parent Agreement)
FORM I: Regulation Waiver Request
FORM J: Exposure to Illness Notice
FORM K: Physician's Order Re: Medication
FORM L: Medical Authorization
FORM M: Authorization to Release from Care
FORM N: Sample Small Claims Court Form
FORM O: Invoice with Contract
FORM P: Demand Letter
FORM Q: Daily Log
FORM R: Monthly Log
FORM S: Yearly Log
FORM T: Invoice with Tax Information
FORM U: Sample Ledger Page

FORM A: Provider-Parent Agreement-Contract (see Chapter 1)

I agree to enroll my child, ______________________________, in the ____________________ Family Day Care Home, beginning on ____________________. I have received and read the attached Family Day Care Rules (Guidelines) and agree to comply with all rules and responsibilities stated in them.

(1) Care will normally begin at __________ o'clock and end at __________ o'clock on the following days of the week:
____

(2) Care will include the following meals and snacks: ________
____
____

The parent will provide food for the following: ______________

(3) The charge for care of the child is $____ per ____. Overtime charges are $____ per ____. There will be a charge of $______ if the child is picked up after ____________ o'clock.

(4) Payment to the Family Day Care Provider will be made in the following manner: cash _____; check _____; by ______________

______________________ on ______________________.
(name of person to pay) (day of week or month)

(Optional) Payment obligation is based on the hours you agree to use child care, not on actual hours of attendance. Payment is due if you have agreed to use certain blocks of time whether or not the child actually attends during those hours.

(5) Children may be taken from the day care provider's care only by the person signed below, by persons listed on Form M or under the conditions specified on Form M.

______________________ (parent's signature(s))
______________________ (provider's signature)

______________________ (date signed)
______________________ (date signed)

Copyright © 1980 BANANAS Child Care Information & Referral Service

FORM B (2 PAGES): SAMPLE ENROLLMENT QUESTIONAIRE

I. BASIC INFORMATION

CHILD'S NAME ______________________________

MOTHER'S NAME ________________ HOME PHONE _______

HOME ADDRESS ______________________________

BUSINESS ADDRESS ______________ BUSINESS PH: ______

FATHER'S NAME ________________ HOME PHONE _______

HOME ADDRESS ________________ BUSINESS PH: ______

BUSINESS ADDRESS ___________________________

CHILD'S DOCTOR (PHYSICIAN) __________________

ADDRESS ______________________ PHONE _______

MEDI-CAL, KAISER OR INSURANCE # ______________

If the parent cannot be contacted in an emergency, please contact:

NAME ____________ ADDRESS ________ PH: _______

NAME ____________ ADDRESS ________ PH: _______

If the parent is separated from his or her spouse, please incicate whether the other parent has permission to have contact with the child at the day care home.

yes ________ no ________

OTHER CHILDREN LIVING AT HOME (please continue on back if necessary)

NAME ______________ AGE _____ SEX ___

NAME ______________ AGE _____ SEX ___

II. HEALTH INFORMATION

BIRTHDATE ____________

HAS THE CHILD HAD ANY OF THE FOLLOWING (when?)

CHICKENPOX ___ SCARLET FEVER ___ ASTHMA ___

MEASLES _____ WHOOPING COUGH ___ DIABETES ___

MUMPS ______ PNEUMONIA ______ ECZEMA ___

RUBELLA _____ RHEUMATISM ______ EPILEPSY ___

IS THERE MEDICATION FOR ANY ON-GOING MEDICAL PROBLEMS? ______

(If so, please sign authorization Form L)

II. HEALTH INFORMATION (CONTINUED)

ANY ACCIDENTS, ILLNESSES OR OPERATIONS? ____________________

DOES THE CHILD HAVE ANY ALLERGIES: (be specific and please discuss reactions) ____

____

IMMUNIZATION RECORD (indicate mot recent dates given)

POLIO __________ DPT (diptheria, tetanus, whooping cough) _____

MUMPS __________ MEASLES . ___________ TUBERCULIN ______

RESULT: _____________________________

DATE OF LAST MEDICAL EXAMINATION _____________________________

NAME OF DOCTOR ______________________ PHONE __________________

SPECIAL REMARKS ABOUT SIGHT OR HEARING ______________________

____

PROCEDURE TO BE FOLLOWED IN THE EVENT OF AN EMERGENCY WHEN PARENT CANNOT BE REACHED _____________________________________

____

III. SOCIAL OR FAMILY HISTORY

HAS THE CHILD HAD GROUP PLAY EXPERIENCE? _____________________

HAS THE CHILD BEEN CARED FOR BY OTHER PERSONS THAN PARENTS? ___

BY WHOM _______________ IN OWN HOME ________ OUTSIDE ________

DOES CHILD NEED HELP IN DRESSING? __________ UNDRESSING _______

WASHING ___________ EATING ____________ TOILET ______________

IS YOUR CHILD TOILET TRAINED? ___________

DOES YOUR CHILD TAKE A NAP? _____ ABOUT WHAT TIME AND FOR HOW LONG? _____________________

DOES YOUR CHILD HAVE ANY SPECIAL PROBLEMS/FEARS? ______________

DOES YOUR CHILD HAVE ANY STRONG LIKES/DISLIKES? _______________

DO YOU FEEL STRONGLY ABOUT ANY FORMS OF DISCIPLINE THAT THE DAY CARE OPERATOR MIGHT USE? _________________________________

____

WHO DISCIPLINES THE CHILD AT HOME? ___________________________

Copyright © 1980 BANANAS Child Care Information & Referral Service

FORM C - 1 Medical Treatment Authorization (short Form)

I GIVE ______________________________ AND HER/HIS EMPLOYEES PERMISSION
(name of day care provider)
TO OBTAIN MEDICAL TREATMENT FOR MY CHILD, ____________________________
(name of child)

____
(signature of parent of guardian)

____
(home address)

____
(city and zip code)

_____________ ____________________ ___________________
(date) (home phone) (work phone)

NOTE: This form is adequate for most hospitals. However, some hospitals require that these Authorization forms be notarized or witnessed. Other hospitals will provide treatment only if the parent has completed the hospital's own particular Authorization form and left a copy of it at the hospital. Parents and/or child care providers should check and comply with the requirements of the hospital which would be used in case of an emergency at the day care home.

Providers may prefer to use Form C-2 (long Form), which complies fully with California Civil Code Section 25.8.

Copyright © 1980 BANANAS Child Care Information & Referral Service

FORM C-2: MEDICAL TREATMENT AUTHORIZATION (LONG FORM)

I/We, the undersigned, am/are the parent(s) [or persons having legal custody] of ______________________________,

a minor, __________ years of age. I/We now am/are entitled to the full and complete custody of said minor child.

I/We hereby authorize ______________________________

in whose care the said ______________________________

has been entrusted by me/us, to consent to any x-ray examination, anesthetic, medical or surgical diagnosis or treatment and hospital care to be rendered to said minor under the general and special supervision and upon the advice of a physician and surgeon licensed under the provisions of the California Medicine Practice Act and/or X-ray examination, anaesthetic, dental or surgical diagnoss or treatment and hospital care to be rendered to said minor by a dentist licensed under the provision of the California Dental practice Act.

This authorization is given pursuant to the provisions of Section 25.8 of the Civil Code of California.

This authorization shall remain effective until __________, 19___, unless sooner revoked in writing.

Dated ______________ Parent ____________________

Witness ____________ Parent ____________________

Witness ____________ Legal Guardian ________________

Parent/Guardian's work phone ____________________ home phone ____________

Copyright © 1980 BANANAS Child Care Information & Referral Service.

FORM D: LIABILITY AGREEMENT (see Chapter 2)

SOME ______(family day care homes/ daycamp programs)______ CARRY LIABILITY INSURANCE. ______(mine/ours/this program)______ DOES NOT BECAUSE WE WANT TO KEEP FEES FOR CARE AS LOW AS POSSIBLE (or, optional) BECAUSE IT IS NOT AVAILABLE TO THIS TYPE OF PROGRAM. AS A RESULT, __(I/we/program name)__ REQUIRE PARENTS WHO SELECT THIS PROGRAM FOR THEIR CHILDREN TO READ AND SIGN THE STATEMENT BELOW:

AGREEMENT

I UNDERSTAND THAT THE ______________________________
(name of program)
IS NOT INSURED FOR LIABILITY, AND IN ORDER FOR MY CHILD(REN),

____,
(name each child)
TO ENROLL IN THIS PROGRAM, I AGREE TO RELEASE ______________

____
(your name(s)

AND HER/HIS EMPLOYEES FROM LEGAL RESPONSIBILITY FOR ACCIDENTS OR INJURIES TO MY CHILD(REN) WHILE IN ______________ CARE.
(her/his/their)

____
(signature(s) parent(s)

____
date

NOTE: This form covers both in-home and field trip accidents.

Copyright ©1980 BANANAS Child Care Information & Referral Service

FORM E: FIELD TRIP PERMISSION

I GIVE ______________________ AND HER/HIS EMPLOYEES PERMISSION
name of day care provider)
TO TAKE MY CHILD, ______________ FOR SHORT TRIPS AS PART OF THE
(name of child)
FAMILY DAY CARE PROGRAM.

____
(signature of parent or guardian)

____
(address)

____
(city and zip code)

____
(date)

FORM F: FIELD TRIP PERMISSION WITH LIABILITY AGREEMENT

(See Chapter 2)

FIELD TRIP PERMISSION

____ _____ MAY
(name(s) of child(ren) in family)

_____ MAY NOT

GO ON FIELD TRIPS. I GIVE _______________________ AND HER/HIS
provider's name
EMPLOYEES PERMISSION TO TAKE MY CHILD(REN) NAMED ABOVE ON SHORT FIELD TRIPS AS PART OF THE FAMILY DAY CARE PROGRAM.

____
Parent's Signature

____
Address

____
City and Zip Code

LIABILITY AGREEMENT

I understand that the ______________________________ does not carry
(name of family day care home)

liability insurance for field trips. In order to have my child(ren),

____, partcipate in field
(names of all children)

trips, I agree to release _________________________ and her/his employees
(provider's name)

from legal responsbility for accidents or injuries to my child while participating in field trips as part of the family day care program.

____
Parent's Signature

_______________________________Date

Copyright © 1980 by BANANAS Child Care Information & Referral Service.

FORM G: "SPECIAL FIELD TRIP" PERMISSION(See Chapter 2)

Some parents want their children to go on special outings or to lessons, etc. The children enjoy these "special field trips." However, our staff cannot leave to drive a small group of children to a special activity. In order for children to go on these kinds of outings, we have to ask a parent to drive them.

This presents a problem for us because our liability insurance policy does not cover parents who drive children on "special field trips." As a result, we must ask any parent who wants her/his children to go on these trips to sign the form below.

If you do not wish to sign the form, your child can stay at the home with the other children. We cannot allow children whose parents haven't signed the form to go on any outing where a parent does the driving.

* *

"SPECIAL FIELD TRIP"
PRMISSION FORM

______________________________ _____ may
(child's name) _____ may not

go on special field trips.

I give ______________________________
(name of day care home)

and its employees permission to send my child on "special field trips" where s/he will be driven by parents.

I understand that the insurance policy of ______________

______________ does not cover field trips where parents drive
(name of home)
the children. In order to have my child participate in such "special field trips" I agree to release ______________________
(name of provider)
and her/his employees from legal responsibility for accidents or injuries to my child(ren) while on such a "special field trip."

____
Parent's Signature

____
Date

Copyright © 1980 BANANAS Child Care Information & Referral Service

FORM H-1: LANDLORD-TENANT AGREEMENT (see Chapter 2)

We, ____,

Tenant(s), and, ____,

Landlord(s), hereby agree to the following:

(1) Tenant(s) will not hold Landlord(s) liable for any accident or injury incurred by the children whom Tenants will care for in the Family Day Care Home business which Tenant(s) intend to operate on the premise rented from Landlord(s) and located at ____________________

____

____.

(2) Landlord(s) consent to the use of the abovenamed premises as a Family Day Care Home business.

________________________________ Tenant

________________________________ Date

________________________________ Landlord

________________________________ Date

Note: This is the simplest landlord-tenant Form and the author recommends it.

Copyright © 1980 by BANANAS Child Care Information & Referral Service.

FORM H-2: LANDLORD-TENANT AGREEMENT (see Chapter 2)

We, ____,

Tenant(s), and, ______________________________________,

Landlord(s), hereby agree to the following:

(1) Tenant(s) will not hold Landlord(s) liable for any accident or injury incurred by the children whom Tenants will care for in the Family Day Care Home business which Tenant(s) intend to operate on the premises rented from Landlord(s) and located at ______________

____

____.

(2) Landlord(s) consent to the use of the abovenamed premises as a Family Day Care Home business.

(3) Tenant(s) further agree to require that each parent whose child attends the Family Day Care Home will sign a "Parent-Provider Agreement." (Example attached hereto.)

______________________________ Tenant

______________________________ Date

______________________________ Landlord

______________________________ Date

Note: On this more complex Landlord-tenant Form the provider agrees to require each parent to sign Form H-3: Parent-Provider Agreement.

Copyright © 1980 by BANANAS Child Care Information & Referral Service.

FORM H-3: PARENT-PROVIDER AGREEMENT ON LANDLORD LIABILITY

In order that I may use the rented premises where I reside as a Family Day Care Home/School, my Landlord requires that all parents of children in my care sign the agreement below.

Not all Family Day Care Homes are located in rented premises, but because mine is, if you choose to enroll your child here, I must require that you read and sign the agreement below:

AGREEMENT

I understand that ____

__________________________________ is located in rented premises,

and in order to have my child(ren), ___________________________

____,

attend, I agree to release ____________________________________,

owner(s) of said premises, from legal responsibility for accidents or injuries to my child(ren) while in attendance at the abovenamed Family Day Care Home.

________________________________ Parent

________________________________ Date

Note: This form should be used only if the provider and his/her landlord sign Form H-2.

Copyright © 1980 by BANANAS Child Care Information & Referral Service.

FORM I: SAMPLE REQUEST FOR WAIVER OF CERTAIN REGULATIONS

NOTE: The local and state licensing offices will process waiver requests. Make three copies of your request letter; one for your licensing worker, one for the state office in Sacramento, and one for your own records. All waiver requests should include (1) the number(s) of the specific regulation(s) you wish to have waived, (2) the reason(s) you are unable to meet the requirement(s) stated in the regulation(s), (3) a statement of how you will comply with the purpose ("intent") behind the regulation(s) waived, and (4) a statement of why you believe your waiver request should be granted.

The sample below is a general guide for writing requests. Your request should be written indvidually to descirbe the particular circumstances in your home.

To:
Licensing Worker
Local Office Address

cc:
Community Care Facilities Licensing
Department of Social Services
744 "P" St.
Sacramento, CA

From:
Your Name
Your address

RE: Request for Waiver of Certain Family Day Care Home Regulations.

I hereby request that the Dept. of Social Services grant a waiver of the following Family Day Care Home Regulations:
Title 22, Cal. Admin. Code, Section(s) ____________________
____
(list by Section number all regulations you want waived)

I request this waiver for the following reasons: ____________
____
(explain why you are unable to comply with the regulations)
____

My home will provide safe and adequate child care services, and I will meet the intent of the waived regulation(s) in the following way(s): ________________________________
(explain how)
____

(optional) I believe that my request should be granted because:
____
(explain why)
____

your signature ____________________

date ____________________

Copyright © 1980 BANANAS Child Care Information & Child Care Referral Service.

FORM J: EXPOSURE TO ILLNESS NOTICE

DATE: ____________________

DEAR PARENTS:

Your child may have been exposed on ______________ to the disease that is checked below.

EARLY SIGNS OF ILLNESS

☐ CHICKENPOX - Onset about 2-3 weeks after exposure, slight fever & irritability for one day; then fine blisters appear, first on the trunk, then on the face. Isolate child 7 days or until all scabs are dry whichever is longer.

☐ STREPTOCOCCAL INFECTIONS - (including Scarlet Fever & Streptococcal sore throat). Onset usually 2-5 days after exposure; sore throat, fever. In some instances, a rash develops. If your child becomes ill, consult your physician immediately.

☐ GERMAN MEASLES - Onset about 2 weeks after exposure; slight head cold, swollen tender glands at back of neck, changeable rash which goes away in 2-3 days. Keep your child away from women who are in the first 3 months of their pregnancy. Isolate child until all symptoms disappear.

☐ MEASLES - Onset about 1-2 weeks after exposure; runny nose, watery eyes, fever (which may be quite high), cough. A blotchy rash appears on about the fourth day of illness. Isolate child for 7 days after appearance of the rash.

☐ MUMPS - Onset about 2-3 weeks after exposure; pain in cheeks, increased by chewing; then swelling especially over the jaw and in front of the ear. Isolate child until swelling has disappeared.

☐ HEAD LICE - For 2 weeks after exposure, observe hair and scalp at neck line and around ears for eggs or nits (tiny, pearly-white, egg-shaped objects) which stick tightly to the hair shaft. Child may also complain of an "itchy" head. Consult your physician or pharmacist for treatment. Child is excluded from child care until treated. Other members of the child's family should be checked carefully.

☐ PIN WORMS - Itching of the anal area especially at night is the most common sign. The child may have insomnia or nightmares & may lose his/her appette. Consult your physician if you suspect pinworms. Other members of the family should also be observed and treated.

☐ CONJUNCTIVITIS (Pink-eye) - Onset is usually 24-72 hours after exposure; irritated, tearing eyes, swollen lids, and a yellow mucus discharge that makes the eyelashes sticky. It is very contagious as long as infection is active. Children under 5 are most susceptible. Child is excluded from child care until symptoms disappear. Consult with physician for treatment.

NOTE: BANANAS suggests that providers complete this Exposure Notice & post it on their front door or near the parent sign-in sheet, etc. where parents will be sure to see it.

Copyright © 1980 BANANAS Child Care Information & Referral Servce.

FORM K: PHYSICIAN'S ORDER RE: MEDICATION

NOTE: Providers should require that parents have their child's physician complete this or a similar form if perscription medicine is not labeled with the child's name, the name of the drug, the physician's name, and directions. Unless providers are given a completed form, they should never administer prescription drugs to a child who is not named on the drug's pharmacy label.

NAME OF CHILD ______________________ AGE ____________

ADDRESS ______________________ DATE OF BIRTH _______

CONDITION FOR WHICH DRUG IS BEING GIVEN ____________________

NAME OF DRUG ________________ DOSAGE ______________

TIME OF DAY TO BE GIVEN ______________________________

POSSIBLE SIDE EFFECTS TO BE OBSERVED ____________________

OTHER SUGGESTIONS, REMARKS, ETC. ________________________

LENGTH OF TIME DURING WHICH MEDICATION SHALL BE GIVEN:

FROM __________ TO _________

__________________________ DATE ________________

ADDRESS ____________________ PHONE ________________

__________________________ DATE ________________

Copyright © 1980 BANANAS Child Care Information & Referral Service.

FORM L: MEDICAL AUTHORIZATION AND MEDICATION CHECKLIST

In order to clarify the procedure for accepting and administering medication to children in the ______________ Family Day Care Home, I must require that parents read, complete, and sign the form below. This must be done each time parents request that we administer medication.

CHILD'S NAME ____________________________________ DATE _____________

NAME OF MEDICATION ____

Does the container show:	Yes	No
1. The child's full name	______	______
2. Name of medicine	______	______
3. Name of physician prescribing	______	______
4. Schedule of administration	______	______
5. Amount given per dose	______	______
6. Method of administration	______	______
7. Pharmacy's name	______	______
8. Date medication was sold	______	______
9. How long medicine is to be given	______	______
Does the container have child-proof cap	______	______
Was the caregiver notified of the child's need for medication?	______	______

PARENT'S EMERGENCY CONTACT NUMBER FOR TODAY IS __________________.

If answers to all the above are YES, then place the medicine container in the kitchen refrigerator (or other safe place specified by provider) and give this form to caregiver.

If some of the answers are NO, then the caregiver cannot administer the medication.

____________________________________ ____________________________

Signature of Parent Signature of Caregiver

____

RECORD OF MEDICATION (continue on back)

____ of medication named above
(dose)

was given on:

Date	Time	By (initial)
_______________	_______________	____________________
_______________	_______________	____________________

NOTE: This form was prepared with the assistance of The Learning Center of the Medical College of Pennsylvania, and Judy Calder, R.N., of BANANAS, Inc.

FORM M: AUTHORIZATION TO LEAVE CARE

For your child's safety, I can allow children to leave my home only with (1) you (the person enrolling the child); (2) persons you have specified below; and (optional) (3) in an emergency, a person who is not listed below, when:

(a) you have told me in person or by phone that he/she is picking your child(ren) up and

(b) I have a signed and dated note from you authorizing me to send the child home with that person.

My child may leave the day care home with the following people:

	Name	Phone	Address	Relationship to child
1.				
2.				
3.				
4.				
5.				

Parent's Signature

Date

Copyright © 1980 by BANANAS Child Care Information & Referral Service.

FORM N (2 pages): SMALL CLAIMS COURT PLAINTIFF'S STATEMENT

MUNICIPAL COURT, COUNTY OF ALAMEDA
BERKELEY - ALBANY JUDICIAL DISTRICT
200 CENTER STREET, BERKELEY, CALIFORNIA

MY NAME (plaintiff) ____________________
MY ADDRESS ____________________
MY TELEPHONE NUMBER ____________________
AMOUNT OF CLAIM ____________; MY CLAIM IS FOR ____________

____

____

DATE AND PLACE WHERE DAMAGES OR INJURY OCCURRED, OR WHERE OBLIGATION WAS TO BE PERFORMED: ____________________

MY CLAIM AGAINST (defendant)
Note: (a) If you are suing an individual, give his full name; (b) If you are suing a business firm, give the firm name and the name of the owner; (c) If you are suing a partnership, you must name the partners; (d) If you are suing a corporation, give its full name; (e) If your suit arises out of an automobile accident, you must name the driver, and name also the registered owner as a defendant in the action.

NAME AND ADDRESS ____________________

____

____

ORDER TO PLAINTIFF TO APPEAR: S.C. ____________
Your case will be tried at _____ on ____________________ in the court room of Dept. _____ at 200 Center Street, Berkeley, CA; Telephone 644-6303.

YOU ARE HEREBY DIRECTED to appear on said date and to bring with you all books, papers and witnesses needed to prove your claim.

CHARLES E. MC CAIN, Clerk

____

I have read the foregoing information and have received a copy of the order and notice of time of trial. If this action is for automobile damages, I certify that I was on the date of the accident the registered owner of the vehicle.

____

PLAINTIFF

FORM O: INVOICE WITH CONTRACT (see Chapters 11, 12)

CHILD's NAME ______________________________ DATE ____________________

PERSON/S RESPONSIBLE FOR PAYMENT ______________________________

AGREED PAYMENT RATE: $ _____ per ____________________ (Regular Hours)
hour, day, week, month

$ _____ per ____________________ (Extra Hours)

BASIS OF CHARGES: Hours present at Family Day Care Home ____; or
Hours reserved for care _____ (check one)

SIGNATURE OF PARENT ______________________________ SIGNATURE OF PROVIDER ______________________________

- -

RECORD OF SERVICES PROVIDED AND PAYMENT RECEIVED

Time & Dates of Care	Amount Due	Date Due	Amount& Date Rec'd	Balance

NOTE: This Form can be xeroxed and used as it appears above, or it can be copied onto two sides of a large index card and kept in a file box. The RECORD of CARE...section should be kept up to date.

Copyright © 1980 BANANAS Child Care Information & Referral Service

FORM P: SAMPLE DEMAND LETTER (see Chapter 11)

Your address
city
date

Ms. Mary Parent
222 Happy Lane
Berkeley, CA

Dear Ms. Parent:

I am writing in regard to the amount you owe me for child care services provided to your son John at my Family Day Care Home in the months of October, November, and December of 1978. Please see the itemization below:

Amounts owed for child care services:

Child Care Provided	Amount Due
October 1978 (full time, entire month)	$150.00
November 1978 (full time, entire month)	150.00
December 1978 (full time, two weeks)	75.00

Amounts paid for child care	
October 1978	$150.00
November 1978	75.00
December 1978	00.00
Total paid	$225.00
Balance due	$150.00

I intend to file suit against you for the amount due plus my costs unless this debt to me is paid in full or satisfactory arrangements for its payment are made.

Please contact me immediately.

Sincerely,

Your Signature

FORM Q: SAMPLE DAILY LOG (see Chapter 12)

DATE	CHILD'S NAME	TIME		AMOUNT DUE	DATE DUE	DATE PAID	BALANCE
		IN	OUT				

NOTE: A Daily Log of all children in care is useful if (a) you care for drop-in children, (b) you care for subsidized children, (c) you charge by the hour, or (d) you charge different fees to different parents. It may be more detailed than necessary if none of the above apply to your home.

FORM R: SAMPLE MONTHLY LOG (see Chapter 12)

MONTH OF ________

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	(# to date 31)	TOTAL	AMOUNT DUE	DATE DUE	DATE DUE
Children's Names																						

NOTE: A monthly log is useful when you charge by the day rather than by the hour. It's useful whether you charge according to time reserved or to time actually used.

FORM S: SAMPLE YEARLY LOG (see Chapter 12)

NAME OF CHILD ____________________

RATE OF PAYMENT ________ per ________

Total days
total due
total paid
total balance

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

JAN. ____________________

FEB. ____________________

MAR. ____________________

APR. ____________________

MAY ____________________

JUN. ____________________

JUL. ____________________

AUG. ____________________

SEP. ____________________

OCT. ____________________

NOV. ____________________

DEC. ____________________

NOTE: A Yearly Log, separate form is kept for each child. This form is useful as a record for your taxes and to copy and give parents for their tax records. You can record the care by the day, week or month depending on whether you charge by the day, week or month.

FORM T: SAMPLE INVOICE WITH TAX INFORMATION (See Chapter 13)

BANANAS CHILD CARE PAYMENT STATEMENT FOR 1979

(Directions on following page)

1. Parent's Name: ______________________________

2. Name of child/ children from this family cared for in	3. DATES OF CARE IN 1979		4. Total child care expenses for 1979 (2e)
	From Month - Day	To Month - Day	
a. ____________	____________	____________	$ ________
b. ____________	____________	____________	$ ________
c. ____________	____________	____________	$ ________

5. Amount of 1979 child care expenses actually paid	6. Amount of 1978 child care expenses paid in 1979 (if any)	7. Provider's Name: ________________
$ ____________	$ ____________	Provider's Address:
$ ____________	$ ____________	________________
$ ____________	$ ____________	________________
$ ____________	$ ____________	________________

Note:

This form was prepared by BANANAS, Inc. to assist you in giving parents the information they need to take a state or federal child care tax credit. The form only has spaces for the information that you need to give parents. It does not have a space for your social security number. You should not give your social security number to parents because they do not need it to complete the tax credit forms. (Parents only need the social security numbers of providers who work in the parents' homes as employees.) Refer parents with questions on this issue to the IRS.

DIRECTIONS:

Line 1. Fill in the parent's name.
Line 2. List separately each child from that family that you cared for in 1979.
Line 3. List the dates of care in 1979 for each child. Do not list care given in any other year.
Line 4. List the total child care expenses for 1979 (If you cared for more than one child from the same family, list the child care expenses for each child separately if possible).
Line 5. List the portion of the total child care expenses for 1979 (line 4) that the parent actually paid you in 1979. In many cases, Lines 4 & 5 will be the same, but if a parent didn't pay you for part of the 1979 care until 1980 or still owes you money for care given in 1979, subtract that amount for the total 1979 child care expenses and list only the amount actually paid you in 1979 on Line 5.
Line 6. List the amount of 1978 child care expenses that the parent paid you in 1979, (if any).

Line 7. List your name & address

Copyright © 1980 by BANANAS Child Care Information & Referral Service.

FORM U: SAMPLE MONTHLY LEDGER (see Chapters 12 & 13) (page 1 of 2 pages)

EXPENSES (Defined as items which are completely used up durng a single year.)

RECORD FOR THE MONTH OF ________________

ITEM	TOTAL for this month	TOTAL FOR YEAR TO DATE
Advertising	0	20.86
Art Supplies	2.00	27.00
Dues for associations	5.00	25.00
Education & Books related to day care	0	60.00
Field Trips	13.50	63.25
Food	66.00	336.00
Gifts	7.05	17.05
Insurance	0	50.00
Maintenance or Cleaning Expenses	0	5.00
Office or Business Expenses	25.00	75.00
Postage	0	5.00
Paper Goods	0	13.00
Repairs	0	10.00
Substitutes & Assistants	30.00	70.00
Toys, Indoor	0	50.00
Toys, Outdoor	25.00	125.00
Mileage	7.5 mi	167.5 mi

PRORATED EXPENSES (Defined as items which are either not completely used up in a single year or items which are not exclusively used for day care. See Chapter 13).

ITEM	TOTAL for this Month	TOTAL FOR YEAR TO DATE
Auto Expense (6/mile)	8.00	168.00
Gas & Electric	22.00	122.00
Rent	240.00	1200.00
Telephone	7.00	35.00
Garbage	4.00	20.00
Water	11.00	55.00
Washing machine repair	20.00	20.00